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ABSTRACT

In a report issued in September 2000, the Federal Trade Commission contended that the motion picture, music recording, and electronic game industries had engaged in widespread marketing of violent movies, music, and games to children inconsistent with their own parental advisories and undermining parents' attempts to make informed decisions about their children's exposure to violent content. This report responds to requests of the Congressional Committees on Appropriations and from 18 representatives by documenting progress regarding advertisement placement in popular teen media and disclosure of rating and labeling information in advertising. The report details findings that there were virtually no ads for R-rated movies in popular teen magazines, with only one ad for an R-rated video advertised in two teen-oriented magazines. Movie studios widely complied with industry commitments not to advertise R-rated movies in venues with at least a 35 percent audience share, but continue to advertise R-rated films on television programs popular with teens. Movie studios continue routinely to disclose ratings and reasons for ratings in television and print advertisements, although there are still many ads with unclear rating reasons. The music industry continues to place explicit-content music ads on television programs and in print magazines popular with teens. Although not widespread, there has been progress made in placing the Parental Advisory Label in music industry advertising. There has been widespread compliance within the electronic game industry with standards for limiting ads for M-rated games where children comprise 35 percent of the television audience or 45 percent of the print audience, although several examples of such ads could be found. The electronic game industry continues to provide rating information prominently in most advertising. The report concludes with suggestions for voluntary improvements. Information on the data collection methods and television and print demographics are appended. (Contains 126 endnotes.) (KB)

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MARKETING VIOLENT ENTERTAINMENT TO CHILDREN:

A TWENTY-ONE MONTH FOLLOW-UP REVIEW OF INDUSTRY PRACTICES IN THE MOTION PICTURE, MUSIC RECORDING & ELECTRONIC GAME INDUSTRIES

A REPORT TO CONGRESS

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EXECUTIVE SUMMARY

In September 2000, the Federal Trade Commission issued a Report requested by the President and Congress entitled, *Marketing Violent Entertainment to Children: A Review of Self-Regulation and Industry Practices in the Motion Picture, Music Recording & Electronic Game Industries* ("September 2000 Report"). That Report found that the three entertainment industries had engaged in widespread marketing of violent movies, music, and electronic games to children that was inconsistent with the cautionary messages of their own parental advisories and that undermined parents' attempts to make informed decisions about their children's exposure to violent content. In addition, the Commission found that advertisements for such products frequently failed to contain rating information. Finally, the Commission reported on the results of an undercover "mystery shop" by unaccompanied teens, aged 13 - 16, of retailers and movie theaters. The young shoppers were able to buy M-rated electronic games and parental advisory-labeled music recordings 85% of the time and purchase tickets for an R-rated movie almost half (46%) of the time.

In April and December 2001, the Commission issued two follow-up Reports in response to a request from the Senate Commerce Committee. Both Reports documented progress by the movie and electronic game industries to limit advertising in popular teen media, but noted that the music industry had not changed its ad placement practices. In the music industry's view, advertising targeted to all ages (including children) is consistent with its parental advisory labeling program which, unlike the rating programs for movies and electronic games, does not designate an age for which parental advisory-labeled music may be inappropriate.

The Commission's December 2001 Report found that the movie and electronic game industries nearly always provided rating information in advertising, and that the music industry was beginning to do so. For the December 2001 Report, the Commission conducted an undercover shopper survey, as it had for the September 2000 Report, to determine whether unaccompanied young teens could purchase M-rated games and parental advisory-labeled recordings from retailers and buy tickets for an R-rated movie. Although electronic game retailers showed modest improvement from the September Report, there was no change in sales practices in the movie theater and music retailer industries.

This new Report responds to requests from the Congressional Committees on Appropriations and from eighteen members of the House of Representatives. It documents what further progress, if any, has been made in the two areas examined in the Commission—s previous follow-up Reports › whether violent R-rated movies, explicit-content labeled music, and M-rated games are advertised in popular teen media, and whether rating information is included in advertising for these products.

Movies. As in the Commission-s prior Reports, this Report found virtually no ads for R-rated movies in popular teen magazines, with only one ad for an R-rated video advertised in two teen-oriented magazines. In addition, movie studios widely complied with industry commitments not to advertise R-rated movies in venues with a 35 percent or more youth audience share. Nonetheless, they continued to advertise R-rated films on television shows that are very popular with teens. As described in previous Reports, the movie industry—s 35 percent threshold permits continued advertising on programs that attract large numbers of underage viewers.

Studios made further progress in disclosing rating information in advertising. In continuation of a trend reported in the Commission—s December 2001 Report, studios now routinely disclose ratings and reasons for ratings in their television and print advertisements › a major improvement since the September 2000 Report. Nonetheless, although a number of studios have done an excellent job in making their disclosures clear and conspicuous, there were still many advertisements with rating reasons that were difficult to read.

Music. The Commission—s review of explicit-content music ad placements showed virtually no change in industry practices since the September 2000 Report. Advertisements continue to be placed on television shows and in print magazines popular with teens. The Commission did find improvements in the music industry-s disclosure of labeling information in its advertising. Although not yet widespread, there has been progress in placing the Parental Advisory Label in industry advertising.

Although the music industry—s labeling program does not require that an industry member indicate why a particular recording received the Parental Advisory Label, one major recording company, BMG Entertainment, has just announced that it will begin placing advisory stickers on

newly released explicit-content labeled albums, specifying whether they have violent content, sexual content, or strong language, and include that same information in advertising. It is not known whether other industry members will also adopt this positive step.

Games. For the electronic game industry, the Commission found widespread compliance with industry standards limiting ads for M-rated games where children under 17 constitute a certain percentage of the audience › 35 percent for tele vision and 45 percent for print. At the same time, the Commission found several examples of advertisements on popular teen television programs, and continued placement of advertising in youth-oriented game enthusiast magazines. As the Commission noted in its December 2001 Report, the industry—snti-targeting standards diminish › but do not eliminate › placements in media with large teen audiences.

The electronic game industry continues to provide rating information prominently in most forms of advertising, which likely reflects its enforcement program. Although some areas still could be improved (e.g., including content descriptors in television advertising), there is much in the game industry-s-rating disclosure requirements that merits duplication by others.

Although it appears that the three industries by and large have implemented their own pledges, as in prior Reports, the Commission offers suggestions for improvements by each of the industries. Because of First Amendment and other issues, the Commission continues to support private sector initiatives by industry and individual companies to implement these suggestions. To encourage continued voluntary compliance and to document any changes in self-regulatory efforts, the Commission will monitor the entertainment industry's marketing practices through the next year, and will then issue a follow-up report.

I. INTRODUCTION

A. Commission Reports on Marketing Violent Entertainment to Children

This is the fourth Commission Report on the marketing to children of violent entertainment products by the motion picture, music recording, and electronic game industries. The Commission—s prior Reports œ the initial Report released in September of 2000 (˜September 2000 Report™), and two smaller follow-up reviews in April (˜April 2001 Report™) and December of 2001 (˜December 2001 Report™) œ were in response to requests from the White House[1] and Congress.[2] The Reports examine whether these three entertainment industries promote products that they themselves acknowledge warrant parental caution in venues where children make up a substantial percentage of the audience.

The September 2000 Report found that industry members routinely targeted children in their advertising and marketing of violent entertainment products, despite self-regulatory ratings or labels indicating the products might not be appropriate for children. The Commission concluded that such advertising and marketing efforts undermined each industry—s parental advisories and frustrated parents–attempts to protect their children from possibly inappropriate material. It called upon the industries to strengthen their self-regulatory programs by: (1) prohibiting target marketing to children and imposing sanctions for violations; (2) improving self-regulatory programs at the retail level; and (3) increasing parental awareness of the ratings and labels. Because of First Amendment issues, the Commission concluded that vigilant self-regulation offers the best approach to helping parents choose what is appropriate for their children.

The Commission—s April and December 2001 follow-up reviews described new self-regulatory initiatives by the four industry trade associations œ the Motion Picture Association of America (˜MPAA™), the National Association of Theatre Owners (˜NATO™), the Recording Industry Association of America (˜RIAA™), and the Interactive Digital Software Association (˜IDSA™). The Commission also reported its findings, based on its review of television and print advertising and industry Internet websites, that although the movie and electronic game industries had made progress in limiting marketing of R- and M-rated products to children, the

music recording industry had not significantly changed its marketing practices since the September 2000 Report. The Commission continued to urge the industries to strengthen their self-regulatory programs.

Following the release of the December 2001 Report, the Commission initiated this third follow-up review of industry practices in response to requests from the Congressional Committees on Appropriations and from members of the House of Representatives.[4]

B. Sources of Information for this Report

To prepare this Report, the Commission collected information from several sources. As it had done for the April 2001 and December 2001 Reports, the Commission tracked advertising placements in media popular with youth, and reviewed advertisements in major media – print, television, and the Internet – to deter mine if they included clear and prominent rating and labeling information. The Commission also reviewed retail packaging for products in each of the three industries – movies sold in DVD format [5], music on compact discs, and electronic games – to assess the extent to which packaging complied with self-re gulatory guidelines for each industry, and included clear and prominent rating and labeling information. Finally, the Commission contacted each of the industries— major trade and retail associations – the MPAA, the RIAA, the IDSA, the NATO, the Entertainment Software Rating Board ("ESRB™"), the National Association of Recording Merchandisers ("NARM™"), the Interactive Entertainment Merchants Association ("IEMA™"), and the Video Software Dealers Association ("VSDA™") – requesting that they outline how they have responded to the recommendations in the Commission's December 2001 Report.

II. MOTION PICTURES

A. Marketing to Children: Ad Placement

1. Industry commitments in response to prior Reports

In response to the Commission's finding in its September 2000 Report that the movie industry had engaged in extensive marketing of violent R-rated films to children, the MPAA

promised that each studio would review its marketing practices to further the goal of ¨not inappropriately specifically targeting children™ in its advertising ofilms rated R for violence.[6] Additionally, the MPAA prescribed that member companies ¨request theater owners not [to] show trailers advertising films rated R for violence in connection with the exhibition of its G-rated films.™[6] The same trailer policy extends to videocassettes and DVDs containing G-rated movies.[8] Through NATO, the theater owners pledged that they would not show trailers for R-rated films before films rated PG and, on a case-by-case basis, before certain PG-13 films.

According to the MPAA, the industry has insured that its marketing practices are responsible by employing a ¨flexible, common sense standard that takes account of the content of each individual film and the makeup of each particular audience and venue.™[6] Several studios independently have promised not to market violent R-rated movies to those under 17,[10] and three of them have promised not to advertise R-rated movies in media with a substantial audience of children under 17, defining ¨substantial™ as more than 35% of the audience.[11]

In a similar vein, NATO reports that many of its members are making increased efforts to train their staff on ratings enforcement, add ratings enforcement compliance inspection to the duties of managerial personnel who visit theater locations, and post personnel at the auditorium entrance for ¨particular, extreme R-rated films, and for all NC-17 rated films.™[6] In addition, the VSDA has expanded its Pledge to Parents program to include a certification program › Parents In Control › by which retailers attest that they will allow parents to control their children-s ability to rent videos that the parents determine are inappropriate for them. According to the VSDA, more than 7,200 stores have been certified or are seeking certification under this program.[13]

2. Industry advertising placements: current practices

a. Television ads

For this Report, the Commission monitored advertising placements during eight weeks of cable, network, and syndicated shows popular with teens.[14] As found in the April and December 2001 Reports, studios have largely complied with their pledges not to advertise on television programs with 35% or more under-17 audiences. However, studios continue to advertise R-rated films on programs that are among the most watched by teens. As noted in prior Commission Reports, the 35% standard adopted by some studios has little impact on the ability

of studios to place ads for R-rated films on television shows favored by teens, given that very few network and syndicated programs popular with teens have under-17 audiences greater than 35%.[15]

In particular, New Line Cinema, Warner Brothers, Lions Gate Films, Columbia, Screen Gems, and Paramount placed numerous ads for films rated R for violence on the television shows on which the Commission monitored placements.[16] The Commission also monitored the advertising of home videos for sale on these same shows. Advertisements by three studios › Lions Gate Films, Twentieth Century Fox, and Warner Brothers › for violent R-rated videos aired 18 times on the monitored programs.[17]

In addition, the Commission gathered data reflecting the date, time, station, and program on which each different ad for an R-rated movie first aired from January to the beginning of April 2002. The Commission—s review of this data found only oninstance where a studio › New Line Cinema › first aired an ad for a movie rated R for violence on a popular teen program.[18]

b. Print ads

For this Report, the Commission monitored advertisements in the February 2002 through May 2002 issues of 16 magazines with substantial youth audiences (*100% Independent Playstation, CosmoGirl!, DC Comics, Electronic Gaming Monthly, Game Pro, Marvel Comics, Metal Edge, Nintendo Power, Right On!, Seventeen, Teen, Teen People, Thrasher, Tips & Tricks, WWF, YM*).[19] The Commission did not identify any advertisements for R-rated movies currently in theaters in any of these magazine issues, a continued improvement over the findings of the September 2000 Report. One R-rated DVD for Lions Gate Films—"O"™was advertised in *Seventeen* and *Teen People*.

c. Internet ads

(1) Motion picture websites

For its December 2001 Report, the Commission-s review of 34 official movie websites showed that more than 75% displayed the film-s rating symbol, usually on either the teaser page or home page, and almost as many provided rating reasons and linked to at least one of three rating information sites, usually to both filmratings.com and parentalguide.org. For this Report,

the Commission reviewed 20 official movie websites,[20] and the results indicated continued improvement. Ninety percent (18 of 20) of the sites displayed the "R™ rating symbol and rating reasons,[21] and all 18 displayed the rating symbol, on either the teaser page or home page.[22] On 14 of those sites, however, rating information was only apparent if the visitor scrolled down to the bottom of the page.[23] A positive development was that seven of the 18 sites (39%) displayed the rating symbol and rating reasons on every page of the site.

Ninety-five percent of the sites (19 of 20) linked to at least two of the following rating information sites: MPAA.org, filmratings.com, or parentalguide.org.[24] The nine movie sites that offered the opportunity to purchase movie tickets at third parties— sites displayd the rating symbol and the rating reasons in close proximity to the link to the third-party site.

Motion Picture Website Review Results

	Summaries by Sites		Percentage Yes
	Yes	No	
Is the movie's rating displayed anywhere on the site?	18	2	90%
On the home page or teaser page? (of 18)	18	0	100%
Is the word "Restricted" readable? (of 18)	18	0	100%
Is the rating visible without scrolling? (of 18)	4	14	22%
Is the movie's rating reason(s) displayed anywhere on the site?	18	2	90%
Is the reason readable? (of 18)	18	0	100%
Is the reason visible without scrolling? (of 18)	4	14	22%
Can you view a trailer for the movie?	17	3	85%
Can you purchase tickets to the movie from the site?	9	11	45%
Is the movie's rating displayed on any page that you must visit during the purchase process? (of 9)	9	0	100%

Is the movie's rating reason displayed on any page that you must visit during the purchase process? (of 9)	9	0	100%
Does the site restrict purchase based on age? (of 9)	0	9	0%
Does the site provide a link to mpaa.org, parentalguide.org, or filmratings.com?	19	1	95%
Does the site provide any detailed information about the MPAA ratings?	1	19	5%

(2) Theater websites

The Commission reviewed websites for 16 major movie theater circuits.[25] The Commission found that each theater circuit site displayed information about movies either (a) on its own website and through a link to a third-party site (12 sites) or (b) solely through a link to a third-party site (four sites).[26] The Commission found that almost all (15 of 16) of the sites displayed the correct movie rating symbols in a noticeable location,[27] although none of the sites use the official MPAA rating icon, but rather, displayed the letter ¯R,™ without the official icon or the word ¯Restricted.™Six of 16 sites (38%) displayed rating reasons.[28] Sixty-nine percent of the sites (11 of 16) provided detailed information about the rating system generally, and seven sites (44%) linked to at least one rating information website.[29] Four of the sites had additional warnings on their sites related to the admittance of people under age 17 to R- or NC-17-rated movies.[30]

Thirteen sites (81%) offered visitors the opportunity to purchase tickets through third-party websites. Three sites sold through Moviefone.com, five through Movietickets.com, and five through Fandango.com. Moviefone.com did not allow the visitor to buy a child-priced ticket to an R-rated movie, warning, ¯Sorry, children under 17 will not be permitted into R features without an adult.™ Movietickets.com similarly warned, ¯Children under 17 will not be admitted without a parent or adult guardian,™ but it would allow the visitor to purchase a child ticket. Fandango.com did not have a warning and would allow the visitor to purchase a child ticket for an R-rated movie.

Theater Website Review Results

Question	NATO Member Theaters		Non-NATO Theaters		All Theaters	
Was the rating displayed on the site?	12 of 12	100%	3 of 4	75%	15 of 16	94%
Was the rating reason displayed on the site?	6 of 12	50%	0 of 4	0%	6 of 16	38%
Does the site provide information about the MPAA ratings system?	7 of 12	58%	4 of 4	100%	11 of 16	69%
Does the site sell tickets?	10 of 12	83%	3 of 4	75%	13 of 16	81%
Does the site link to rating information at MPAA.org, parentalguide.org, or filmratings.com?	7 of 12	58%	3 of 4	75%	7 of 16	44%

(3) Home video retailer websites

The Commission reviewed the rating information available for five R-rated and one NC-17-rated movie on five online movie retailers–sites.[32] Consistent with past reviews, rating disclosure practices proved to be mixed. The correct MPAA rating symbol was displayed 66% of the time (20 out of a possible 30 visits).[33] The correct rating reasons were displayed only ten percent of the time, all on TowerRecords.com.[34] None of the sites linked to rating information at other sites, but BestBuy.com provided extensive information about the ratings through clicks on the rating symbol for the movie. Amazon.com was the only site that indicated it would prohibit sales based on age,[35] but none of the sites asked for age information during the purchase process.

Motion Picture Retail Website Review Results

	Amazon	Best Buy	Circuit City	Sam Goody	Tower Records
Is the movie's correct MPAA rating displayed during the purchase process?	5 of 6	3 of 6	4 of 6	4 of 6	3 of 6
Is the word "Restricted" readable?	5 of 5	3 of 3	4 of 4	4 of 4	3 of 3
Is it the MPAA rating icon?	5 of 5	0 of 3	0 of 4	0 of 4	0 of 3
Is the rating visible without scrolling?	4 of 5	3 of 3	4 of 4	4 of 4	0 of 3
Is the movie's official MPAA rating reason displayed during the purchase process?	0 of 6	0 of 6	0 of 6	0 of 6	3 of 6
Is the movie's rating reason readable?	0 of 0	0 of 0	0 of 0	0 of 0	3 of 3
Is the movie's rating reason visible without scrolling?	0 of 0	0 of 0	0 of 0	0 of 0	3 of 3
Does the site provide a link to mpaa.org, parentalguide.org, or filmratings.com?	0 of 6	0 of 6	0 of 6	0 of 6	0 of 6
Does the site provide any detailed information on the MPAA rating system?	0 of 6	6 of 6	0 of 6	0 of 6	0 of 6

B. Ratings and Reasons for Ratings in Ads

1. Industry commitments in response to prior Reports

In its September 2000 Report, the Commission recommended that studios clearly and

conspicuously display both the rating symbol and the reasons for the rating in all advertising and product packaging.[36] In response, the MPAA has disseminated educational materials about the rating system, such as a poster and pamphlets, and established the filmratings.com website, which provides rating information on all rated movies. In addition, it has prescribed that (a) the rating symbol, definition, and reasons for all but G-rated films be included in newspaper advertising above a certain size, posters, and billboards, (b) websites include the rating symbol and rating reasons on the title page; and (c) all videocassette and DVD packaging carry the rating symbol and rating reasons in addition to including this rating information and a reference to filmratings.com in the preface to the film.[37] NATO also has encouraged the MPAA and the studios to include reasons for the ratings of films in all print advertising.[38]

2. Industry advertising of rating information: current practices

a. Television ads

The Commission-s review of television ads reveals that the motion picture studios almost always include the letter rating and the reasons for the rating in their commercials. Yet as found in the December 2001 Report, while the ratings were readable, the reasons frequently were difficult or impossible to read.

The Commission reviewed 11 ads from eight studios that aired on the programs reviewed for this Report. In four of the ads, the rating reasons appeared on the screen long enough and were large enough to be read. In the remaining ads, the rating reasons were either too small or too obscured to be read, and in some instances were displayed for too short of a time to be read.

b. Print ads

For this Report, the Commission reviewed movie advertisements in the same magazines discussed in the Advertising Placement section above, as well as general circulation magazines and newspaper ads,[39] to determine whether the rating and rating reason were displayed, and to assess whether the rating reasons were legible. The Commission reviewed newspaper and magazine ads for PG-13 or R films, and identified 992 ads that met the MPAA- s minimum size requirements › five inches › for disclosing rating information.[40] Nearly all of the ads (947) reviewed displayed a rating and a rating reason.[41] Seventy-nine percent of ads reviewed clearly displayed the rating reasons, although the degree to which the reasons were conspicuous varied

widely. The rating reasons in many ads for Screen Gems — RESIDENT EVIL and Columbia—s BLACK HAWK DOWN were quite conspicuous and clearly readable. In addition, many studios continue to provide legible rating reasons in ads less than five inches in height, even though the MPAA does not require rating reasons in such ads. For the remaining ads, the rating reasons were either so small or so obscured that they were literally unreadable (51 ads), or were difficult to see (110 ads). Studios advertising rating reasons that were illegible include Miramax, New Line Cinema, Fox, and USA Films.

The Commission also reviewed magazine[42] print ads for home videos and DVDs. The Commission found eight advertisements for violent PG-13- and R-rated movies. Four of the ads displayed ratings and rating reasons that were clear and conspicuous. One of the ads contained a rating and rating reason, but they were obscured by their placement near the studio information. Three of the home videos advertised contained no ratings or rating reasons.

Finally, the Commission reviewed retailer ads in free-standing inserts in the Sunday edition of newspapers over a six-week period.[43] Best Buy and Target were notable for prominently displaying the R-rating for the movies featured in their inserts and including the words "Restricted Rating" next to R-rated video or DVD clip art. The Wiz and Wal-Mart go even further by including ratings next to advertisements for PG-13, PG, and G videos and DVD clip art.[44] Overall, however, roughly half the retailers advertising videocassettes and DVDs did not feature the film rating. No retailer included the reasons for the ratings in its ads.

C. Product Packaging Review

Under the MPAA—s guidelines, all packags of rated releases for videocassettes and DVDs should carry the rating of the film and the reasons for the rating and should display the rating clearly and legibly.[45] Additionally, the preface to videocassettes and DVDs should include the reasons for the rating of the film, plus information about the filmratings.com website.[46] Trailers for PG-13 films must be suitable for general audiences.[47] Restricted trailers can appear only before films rated R or NC-17.[48]

The Commission reviewed packaging for 12 recently released movies on DVD.[49] This review suggested that the motion picture studios are generally following the MPAA—s packaging

requirements. All 12 of the DVDs displayed the rating and rating reasons on the packaging. The rating was readable in all instances, and the rating reasons were readable in all but two instances. In all instances, however, the rating and reasons were on the back of the packaging (the MPAA guidelines do not specify where rating information should appear).[50] In general, rating information on movie packaging was rendered less noticeable due to small size, inconsistent positioning on the back of the package, and poor contrast.

D. Analysis of Current Industry Practices

Overall, the motion picture industry has taken a number of positive steps in response to many of the issues raised in prior Commission Reports. Industry members have greatly improved the disclosure of rating information in advertising, and the studios have enhanced efforts to avoid specifically targeting teens for R-rated films. Nearly all of the ad placements by industry members appear to comply with the voluntary standards adopted by the industry and individual members. Nonetheless, industry members continue to promote R-rated movies on television programs with substantial youth audiences.

III. MUSIC RECORDINGS

A. Marketing to Children: Ad Placement

1. Industry commitments in response to prior Reports

According to the RIAA, prior Commission criticism of the music recording industry for advertising explicit music to teens is unfounded because the Parental Advisory Label system is not an age-based system.[51] As the RIAA explains, the Parental Advisory Label is not an indication, implied or express, that a sound recording is inappropriate for anyone of a certain age or maturity level, but rather is a "heads-up" to parents that a sound recording contains explicit content.[52] The RIAA further points out that an edited version is available for most explicit recordings, and that it is the edited version, not the explicit version, that usually airs on television and is played on the radio.[53]

2. Industry advertising placements: current practices

a. Television ads

In the December 2001 Report, the Commission found that the music recording companies continued to place ads for explicit-content recordings on popular teen television shows. This is still the case. The study revealed that the five major recording companies œ Universal Music Group (¯UMG™), Sony Music Entertainment (¯Sony™), EMI Recorded Music (¯EMI™), BMG Entertainment (¯BMG™), and Warner Music Group (¯Warner™), continue to place ads on shows that are popular with teens, primarily on MTV and BET.[54]

b. Print ads

In the December 2001 Report, the Commission found continued ad placement in popular teen magazines by four of the five major recording companies. The Commission reviewed ads in *Metal Edge*, *CosmoGirl!*, *Right On!*, *Teen*, *Teen People*, *YM*, *Seventeen*, and *Thrasher*. For this Report, the Commission found better results: Two recording companies › UMG and BMG › ran one or more ads for explicit content recordings in the February - May 2002 issues of *Metal Edge*, *Right On!* or *Thrasher*.[55]

B. Advisory Labels and Reasons for Labels in Ads

1. Industry commitments in response to prior Reports

The RIAA has published revised guidelines, effective April 1, 2002, that enhance the disclosure of the explicit content designation on product packaging and in advertising. First, if an edited version of an album designated with the Parental Advisory Label is released, the album should plainly display the ¯Edited Version™ Label on the front or on the top spine of the CD.[56] Second, consumer print advertising may state that an edited version of an explicit recording is available for sale.[57] Third, all print, radio, and television advertising for recordings bearing the Parental Advisory Label must communicate the presence of explicit content.[58]

In addition to revising its guidelines, the RIAA has conducted spot-checks of over 200 recordings in retail stores and has reviewed print advertising for compliance with label display requirements.[59] The RIAA reports perfect compliance with the requirement that the Parental Advisory Label be permanently affixed to product packaging and with the requirement that print

ads display the label.[60] Consistent with the NARM guidelines,[61] the RIAA found no instances where price stickers obscured the label.[62]

The music industry's labeling program does not require that an industry member indicate why a particular recording received the Parental Advisory Label. Thus, such information is not currently included in labeling or advertising. However, this should change for at least one of the major recording companies, BMG. BMG has just announced that on July 31, 2002, it will begin to place revamped advisory stickers on newly released explicit-content labeled albums, specifying whether they have violent content, sexual content, strong language or some combination of the three, and include that same information in television, radio, print, and on-line ads.[63] The Commission does not know whether other recording companies will follow BMG's lead and take this positive step to provide more information to concerned parents.

The RIAA and the NARM also report that they have made efforts to educate retailers and consumers about the Parental Advisory Label System. The RIAA distributes an informational brochure in English and Spanish describing the system and has partnered with the NARM to provide posters and counter cards describing the system for display at retail establishments.[64]

2. Industry advertising of labeling information: current practices

a. Television ads

The December 2001 Report showed an increase in the appearance of Parental Advisory Labels in television ads. For this Report, the Commission reviewed ads placed during shows popular with teens[65] and found that 24 out of the 49 ads (49%) contained a Parental Advisory Label, a slight improvement from the December 2001 Report which showed that 40% of ads for explicit recordings contained a Parental Advisory Label.[66] Ads by UMG for WORD OF MOUF and BEST OF BOTH WORLDS contained advisories that were separate from the cover art and were clear and conspicuous.[67] Most of the advisories in the remaining ads were blurry or difficult to read.

b. Print ads

The review for the December 2001 Report showed some late progress in placing Parental Advisory Labels in print advertising. For this Report, the Commission review of 11 magazines[68] from February - May 2002 revealed that 48% (12 out of 25) of the ads placed by major companies for explicit-content recordings contained a Parental Advisory Label. Of these 12, all

advisories were clear and conspicuous.[69] These results show an improvement from the December 2001 Report where only 15% of the ads for explicit-content recordings contained clear and conspicuous Parental Advisory Labels.

Independent recording companies did not do nearly as well as the major companies. In its review, the Commission found 11 ads by independent companies for explicit content recordings. Only one ad displayed a Parental Advisory Label. The Commission also reviewed seven magazine ads for explicit content recordings placed by two retailers. Four placed by Target displayed the label clearly and conspicuously but three placed by Best Buy contained no Parental Advisory Labels.

A review of free-standing inserts in Sunday newspapers showed better results, as most of the ads included a Parental Advisory Label on the clip art for the music promoted. However, many labels were too small, blurry, or inconspicuously placed to be easily noticed or read. Two notable exceptions were ads for Target and Best Buy, which had larger, conspicuous labels and the addition of the words ˜Parental Advisory™next to the clip art for explicit titles.

c. Internet ads

As for prior Reports, the Commission surveyed websites to determine whether industry members were providing online disclosures about explicit content. It surveyed 20 artist/recording company sites[70] and five major music retailer sites.

(1) Recording company or artist websites

The review of official music websites shows similar results to the Commission—s December 2001 survey.[71] Half of the sites (10 of 20) displayed the Parental Advisory Label, and eight of those sites prominently displayed the label on the teaser page or home page. Only one site displayed an unreadable label. Three sites stood out in their effort to display the parental advisory: the sites for PUDDLE OF MUDD and FABOLOUS displayed the label on every page of the site, and the site for RUFF RYDERS displayed the label on several pages, including a page with a label that filled an entire page that must be visited when navigating the site.

Consistent with past surveys, six of the 20 sites (30%) provided the lyrics for the explicit content recordings, and the same number linked to either www.riaa.com or www.parentalguide.org. All of the sites allowed the visitor to listen to audio samples, and all but

one site provided downloadable video clips. Half of the sites allowed the visitor to purchase the album (none specifically restricted purchase based on age, although all required credit cards, which may effectively limit children—sccess). For those 10 sites, the label was visible during the purchase process 60% of the time.

Recording Company Website Review

	YES		NO	
	#	%	#	%
Is the album's Parental Advisory Label displayed anywhere on the site?	10	50%	10	50%
On the home page or teaser page? (of 10)	8	80%	2	20%
Are the words in the advisory readable? (of 10)	9	90%	1	10%
Is the label visible without scrolling? (of 10)	7	70%	3	30%
Is the record offered for sale?	10	50%	10	50%
Does the site restrict purchase based on age? (of 10)	0	0%	10	100%
Does the site provide a link to RIAA.org or parentalguide.org?	5	25%	15	75%
Does the site provide any detailed information about the parental advisory label system?	0	0%	20	100%
Does the site provide lyrics?	6	30%	14	70%

(2) Retailer websites

The review of the websites of five major music retailers also showed results almost identical to those found in prior surveys. As for past Reports, the Commission reviewed Amazon.com, Bestbuy.com, CDNow.com, Samgoody.com, and TowerRecords.com to see how these sites promoted five top-selling explicit content albums. For nearly every album (23 of 25), the retailers provided some indication that the albums had been assigned a Parental Advisory Label. In addition to displaying the albums–cover art containing the Parental Advisory Label, Amazon.com and TowerRecords.com provided textual disclosures on the album information

pages that read "EXPLICIT LYRICS™ and "Explicit Lyrics,™ respectively BestBuy.com displayed an unreadable label on the albums— cover art, but did provide a hyperlink next to the cover art labeled "Parental Advisory,™ which, when clicked, would lead to a larger Parental Advisory Label and information about the labeling system.[72] For CDNow.com and SamGoody.com, the only indication of a parental advisory on the album information page was an unreadable or difficult to read label on the albums—cover art. If a CDNow.com visitor entered the album title as a search on the site, however, the list generated by the search displayed "Explicit™ next to the album title. About half the time (11 of 23 instances), Parental Advisory Labels displayed on the albums— cover art proved to be unreadable.

Almost two-thirds of the time (16 of 25 instances), the visitor, regardless of age, could play either part or the full-version of songs from the album.[73] Although none of the retailers explicitly restricted purchase based on age, all required a credit card number, money order, or check to make a purchase.

Music Retailer Website Review

	Amazon	Best Buy	CDNow	Sam Goody	Tower Records
Is the album's Parental Advisory Label displayed anywhere on the site?	5 of 5	5 of 5	5 of 5	3 of 5	5 of 5
Is the advisory readable?	4 of 5	0 of 5	5 of 5	2 of 3	4 of 5
Is the advisory visible without scrolling?	5 of 5	5 of 5	5 of 5	3 of 3	5 of 5
Is the album's label or another notice of explicit content displayed throughout the purchase process?	5 of 5	0 of 5	0 of 5	0 of 5	5 of 5
Does the site provide a link to parentalguide.org?	0 of 5	0 of 5	0 of 5	0 of 5	0 of 5

Does the site provide any detailed information about the Parental Advisory Label system?	0 of 5	5 of 5	0 of 5	0 of 5	0 of 5

C. Product Packaging Review

If a company and/or an artist determines that a recording contains explicit content, the RIAA recommends using the label on the packaging of all cassettes, CDs, vinyl records, and music videotapes.[74] According to the RIAA, the label should measure 1" x 5/8" and should be part of the permanent packaging under the cellophane shrink wrap, rather than a removable sticker.[75]

The Commission reviewed the packaging of 12 top-selling CDs that bore the Parental Advisory Label. This review suggested that the recording companies are generally following the RIAA—s suggtions for using the label. All 12 CDs displayed the label on the front of the packaging, all of the labels were readable and in the design recommended by the RIAA, and all but one was a non-removable part of the permanent packaging.[76] Labels on 10 of the CDs met or exceeded the size specifications for the label. Although not recommended by the RIAA, eight out of 12 CDs provided lyrics inside the packaging for all songs on the album; none provided lyrics on the outside. Providing lyrics may assist parents in monitoring their children—s entertainment choices.

The NARM indicated in a recent letter to the Commission that the industry was considering moving the Parental Advisory Label to the back of the packaging, principally out of a concern that price stickers placed on the front of the CD might unintentionally obscure or cover the Label.[77] Nonetheless, such a step would decrease the prominence of the Parental Advisory Label, particularly for a consumer perusing titles in a store.[78]

D. Analysis of Current Industry Practices

The practices of the music industry continue to reveal a mixed picture. On the positive side, the recording industry has made progress in improving the frequency in which ads for

explicit content records contain the Parental Advisory Label. BMG—s recent announcement that it will begin to specify on newly released explicit-content labeled albums whether they have violent content, sexual content, strong language or some combination of the three, and include that information in advertising is a positive step, especially if duplicated by other recording companies.

At the same time, industry members continue to advertise explicit-content recordings on television shows and in print magazines popular with teens. Although the recording industry defends this practice by pointing out that the parental advisory is not an age-based system, such marketing appears inconsistent with a label that cautions parents that some material might not be suitable for their child.[79]

IV. ELECTRONIC GAMES

A. Marketing to Children: Ad Placement

1. Industry commitments in response to prior Reports

In its September 2000 Report, the Commission found widespread marketing of Mature ("M™")-rated electronic games to children under 17[80] , a practice that violated the anti-targeting provision of the game industry-s comprehensive self-regulatory code. The electronic game industry responded by amending its anti-targeting provision to add specific standards that define targeting. Under the amended provision, ads for M-rated games should not appear on TV and radio programs with a 35% or more under-17 audience, or in print media or Internet sites with a 45% or more under-17 audience.[81] In addition, since October 31, 2001, the ESRB has implemented a stepped-up enforcement system, which is premised on the severity of a particular violation and the number of points accrued by the publisher for past and current violations of the industry code. Sanctions range from requiring corrective action to monetary fines for inappropriate target marketing.

Although the game industry-s adoption of the percentage-based standards across all media is a positive step, the thresholds permit ad placements for M-rated games in many of the

youth-oriented magazines, television programs, and websites that industry members had previously included in marketing and media plans that targeted 12- to 17-year-olds. Thus, the standards would appear to rein in only the more extreme examples of under-17 targeting, while leaving largely intact the ability to reach a substantial teen audience. The IDSA has stated that it will continue to examine the possibility of imposing time-of-day restrictions for M-rated ads,[82] although it has noted that such restrictions likely would also limit advertising to a substantial adult viewing audience.[83]

The electronic game industry has elected not to employ other suggested factors to limit advertising in media most popular with teens, such as the total number of children reached and whether the content and characters are youth-oriented.[84] The industry has asserted that these factors present insurmountable compliance difficulties, because the appropriate number of children reached would vary considerably between and within media, and (if set too low) would limit advertising to a legitimate adult audience.[85] Further, it is argued that determining whether a show is ˜youth-oriented™s too subjective a judgment for a system where non-compliance leads to fines and other sanctions.[86]

As a complement to restricting the marketing of M-rated electronic games to children under 17, the VSDA and the ESRB have developed programs for retailers that wish to restrict sale or rental of products. For example, the VSDA has expanded its Pledge to Parents program to include a certification program › Parents In Control › by which retailers attest that they will allow parents to restrict the ability of their children to rent video games that the parents determine are inappropriate for them.[87] In addition, the IEMA, a trade group representing nearly all of the major electronic games retailers, notes that several retailers have adopted or are considering adopting programs that would discourage or restrict the sale of M-rated games to children.

2. Industry advertising placements: current practices

a. Television ads

As found in the April and December 2001 Reports, electronic game companies have

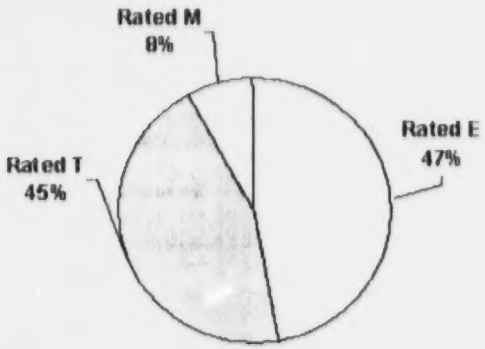
complied with industry standards not to advertise M-rated games on television programs with 35% or more under-17 audiences. However, as noted above, the 35% standard has little impact on the ability of game companies to place ads for M-rated games on television shows favored by teens, given that very few network and syndicated programs popular with teens have under-17 audiences greater than 35%.

In the December 2001 Report, the Commission found only three ads for a single M-rated game airing on shows popular with teens. For this Report, the Commission continued to monitor the frequency in which such ads appeared. In the eight-week review (February - March 2002) of network, syndicated, and cable shows,[88] 33 ads for four M-rated games by Capcom, Rockstar Games, and Konami appeared on several of the shows that were monitored.[89] None of these shows have under-17 audiences that are 35% or more and thus these placements would not violate game industry standards. Nonetheless, these shows are among those shows most popular with teens. It is unclear whether this increase in the number of M-rated game ads appearing on popular teen shows reflects an actual shift in advertising practices by the industry or whether the monitoring took place at a time when more M-rated games were entering the market.

b. Print ads

To monitor ad placements in popular teen publications, the Commission reviewed the newstand edition of *GamePro* and *Electronic Gaming Monthly* over a four-month period (February - May 2002). Although neither of these magazines have readerships that are 45% or more under 17, both of these publications are among the most popular game enthusiast magazines with teens and children.[90] This review showed that the number of M-rated games advertised in these two publications went to 8% from 10% in the December 2001 Report. A breakout of the magazine ads by rating follows.[91]

GamePro and Electronic Gaming Monthly Advertising Composition by Rating February - May 2002
("Rating Pending" ads are grouped by the rating they later received)



Because of the large size of the under-17 readership for its subscription edition (54%), the publisher of *GamePro* instituted a change to its M-rated game ad placement policy › ads for M-rated games are now only allowed in its newsstand edition, which has an older readership (35% under 17). A review of the February - May 2002 subscription issues of *GamePro* found no ads for M-rated ads. [92]

In addition to *GamePro* (newsstand edition) and *Electronic Gaming Monthly*, the Commission also reviewed other game enthusiast magazines with a high teen readership œ *100% Independent Playstation Magazine, Tips & Tricks,* and *Nintendo Power*.[93] This review showed that nine industry members placed a total of 49 ads for 18 M-rated games between February and May 2002.[94]

B. Ratings and Reasons for Ratings in Ads

1. Industry commitments in response to prior Reports

In the September 2000 Report, the Commission recommended that all advertising contain both the rating and the reasons for that rating, also known as content descriptors. The IDSA and ESRB have for years required that such information be included in print advertisements, and have required that the rating (but not the content descriptors) be included in televison and radio advertising. These organizations have made numerous improvements and refinements to the rating display requirements and have initiated an expanded monitoring and enforcement program. They have yet, however, to require content descriptors in television or radio advertising, although some game publishers have voluntarily adopted this practice.[95]

The ESRB has also undertaken substantial efforts to raise public awareness of the rating system and to educate the industry about compliance.[96] These activities include: a third public service announcement (this one featuring Regis Philbin); outreach to print and electronic media; paid print advertisements in major newsweekly magazines urging parents and consumers to ˜check the rating™¸contact with retailers to distribute brochures, posters, and point-of-purchase information; encouragement of retailers that operate in-store television networks to broadcast the public service announcements on their closed-circuit systems; commitments from Microsoft and Nintendo to include the public service announcements on their kiosk demo disks, which are played on the video game platform demonstration stations in thousands of retail outlets; and seminars and on-site visits with game publishers about the upgraded enforcement system.[97]

2. Industry advertising of rating information: current practices

a. Television ads

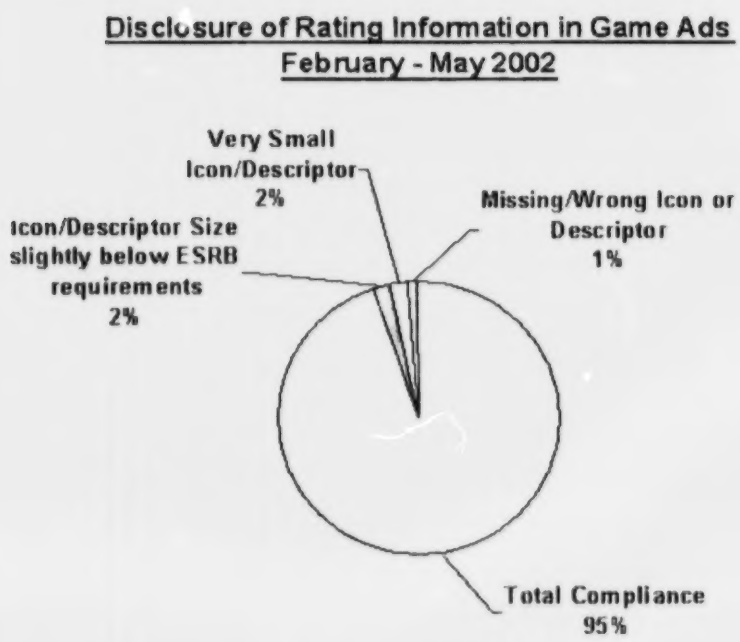
In the December 2001 Report, the Commission found that nearly all of the M-rated game ads included adequate voice-overs and rating icons that met industry size requirements. For this Report, the Commission—s review of television ads for T- and M-ratedagnes that aired during the months of February and March 2002 found that all the ads used icons that were the correct size and were on the screen long enough to be read. In addition, all the ads included voice-overs

that were easily heard.[98] One ad for Rockstar—s M-rated MAX PAYNE went beyond industry requirements by including a visual disclosure of the game—s content descriptors in addition to a display of the rating icon and the use of a voice-over giving the game—s rating. These results showed continued compliance by game industry advertisers with requirements for disclosing rating information in television advertising.

b. Print ads

In its review of print ads in the December 2001 Report, the Commission found that a majority of game advertisers either fully or substantially complied with industry requirements for rating disclosure, with 7% of the ads reviewed containing a missing or incorrect descriptor, and an additional 6% displaying the rating and descriptors in a font size substantially below industry minimum size standards.

For this Report, the Commission reviewed six popular game enthusiast magazines (*100% Independent Playstation Magazine, GamePro, Computer Gaming World, Electronic Gaming Monthly, Tips & Tricks, Nintendo Power*) over a four-month period (February - May 2002).[99] Overall, only 1% of the ads reviewed contained a missing icon or content descriptor and another 2% used icons or descriptors that were sized substantially below industry standards.[100]


Disclosure of Rating Information in Game Ads
February - May 2002
Very Small Icon/Descriptor 2%
Missing/Wrong Icon or Descriptor 1%
Icon/Descriptor Size slightly below ESRB requirements 2%
Total Compliance 95%

The Commission found continued improvement in compliance with industry standards by nearly all the major advertisers. Of the 29 publishers who placed four or more T- or M-rated ads during the time of the Commission—s review, 27 adhered to the industrytandards. The other two companies, 3D Realms and KOEI, had instances of either missing or wrong descriptors or small icon sizes, problems which were either fully or partially corrected in subsequent ads published in the magazines that were reviewed.[101] Four companies placed poster inserts into the gaming magazines, one of which did not include an icon or descriptors.[102]

The Commission also reviewed retailer ads in these same publications from Best Buy, Electronics Boutique, Sears, Target, and Wal-Mart, which promoted several game titles with various ratings. Each of the retailers legibly displayed the rating icon on the cover art of the game packaging shown in the ad. One retailer, Target, enlarged the icons on M-rated game cover

art making it easier to read, and Wal-Mart included an ˜E-T™ icon in its ads.

A review of free-standing inserts showed that virtually all of the ads included the rating on the clip art for the game advertised, although the rating was at times hard to find and read. Target, Best Buy, CompUSA, Toys ˜R™ Us, Wal-Mart, and MediaPlay for the most part displayed conspicuous or enlarged M ratings on M-rated games. In addition, Best Buy included the words ˜Mature Rating,™ and Target added ˜Rated M for Mature™ next to the clip art for M-rated games. Wal-Mart and Toys ˜R™ Us prominently displayed an explanation of each of the ratings in the middle of the page where the game ads appeared. Best Buy, Circuit City, Toys ˜R™ Us, and Media Play disclosed the ESRB toll-free phone number near advertisements for games, and Toys ˜R™ Us and Circuit City included the address for the ESRB website.

c. Internet ads

(1) Game publishers

The advertising code requires a number of specific disclosures for game publishers—websites. If the publisher—s advertisement is larger than one-fourth of a screen page, the rating icon and content descriptors must be visibly and prominently displayed directly on the advertisement.[103] If the publisher is selling the game online, both the rating icon and content descriptors must appear on any page where a game can be purchased.[104] For game ˜demos,™ the rating icon and content descriptors or text of rating information (e.g., ˜ESRB Rating: EVERYONE with COMIC MISCHIEF™) must be displayed adjacent to the name of the title on the page where the demo is accessed or on the specifications page prior to download.[105]

For this Report, the Commission reviewed 20 game publisher sites for M-rated games.[106] The Commission found little change in some areas and improvements in others since the December 2001 Report. With regard to improvements, 100% of the sites displayed a rating icon, and all but one[107] displayed readable rating icons on the home page or a teaser page.[108] For 70% of the sites (14 of 20), however, the location of the rating icon was not obvious, requiring the visitor to scroll down the screen to view it. Similarly, although 70% of the sites displayed readable content descriptors somewhere on the site (showing continuing improvement since the

last Report),[109] only 5% of the time (1 of 20 sites) were the descriptors obvious; the remaining sites required the visitor either to hold the cursor over the rating icon or to scroll down the page (with no indication that these steps were necessary to reveal the descriptors) in order to view the content descriptors. The site for GRAND THEFT AUTO 3 was the only site that prominently displayed the content descriptors.

Thirteen sites had demos that the visitor could view or play. Seven of these sites did not display a rating icon or content descriptor next to the title of the game, and five of the sites displayed just the icon. One site displayed both the icon and content descriptor, but required the visitor to roll the mouse over the icon in order to view the descriptor. The site for Activision's SOLDIER OF FORTUNE 2 displayed a very prominent warning page once a visitor attempted to view the demo.[110]

Sites for each of the 12 games that could be purchased displayed a rating icon on a page that the visitor must click through in order to purchase the game; two-thirds of the time the rating icon was visible without having to scroll down the screen. Sites for 10 of 12 games (83%) displayed content descriptors on these pages, but only one of these sites had descriptors that could be viewed without needing to scroll or roll the mouse over the rating icon.[111] Several sites displayed additional age-based warnings after a visitor clicked on a link to purchase the game.[112] Five of the 12 games could be purchased on the game publisher—s site (others linked purchasers to third-party online retailers). Although none of these five sites restricted sales to persons over age 16, most required credit cards to make a purchase, thereby limiting children—s access.

Less than half (eight of 20) of the websites linked to the ESRB website. Two sites, Nintendo-s ETERNAL DARKNESS and Interplay-s GIANTS: CITIZEN KABUTO, also contained their own information on the ESRB rating system.

Electronic Game Publisher Website Review

	Summaries by Sites		Percentage Yes
	Yes	No	
Is the game's rating displayed anywhere on the site?	20	0	100%
On the homepage or teaser page?	19	1	95%
Is the word "Mature" readable?	19	1	95%
Is the rating visible without scrolling?	6	14	30%
Is the game's content description displayed anywhere on the site?	14	6	70%
Is the description readable? (of 14)	14	0	100%
Is the description visible without scrolling? (of 14)	3	11	27%
Are you required to hold the cursor over the rating icon to view the description? (of 14)	5	9	36%
Can you purchase the game at this site?	12	8	60%
Is the rating icon displayed on any page that you must visit during purchase process? (of 12)	12	0	100%
Is the content descriptor displayed on any page that you must visit during the purchase process? (of 12)	10	2	83%
Does the site provide a link to esrb.org or parentalguide.org?	8	12	40%
Does the site provide any detailed information about the ESRB ratings?	2	18	10%

(2) Retailers

Retailers have been encouraged to follow the ESRB rating system. For this Report,[113] the Commission reviewed the marketing of five M-rated games on five retailer sites: Amazon.com,

BestBuy.com, CircuitCity.com, EBGames.com, and GameStop.com.[114] Every game (25 of 25) checked on the retailer sites indicated the "Mature™ rating. The rating icon or a textual description of the rating was readable 80% of the time (20 instances) and visible without scrolling down the page in every instance.[115] EBGames.com was the only site that also displayed the official ESRB content descriptors,[116] providing it for all five of the games checked. Moreover, the descriptors for games on EBGames.com did not require the visitor to scroll down the page or to hold the cursor over the rating icon to view them.

All of the sites displayed the games' rating icons on a page that the viewer must visit in the course of the purchase process, and EBGames.com also displayed the content descriptors. The rating icon or a textual description of the rating was visible without scrolling in every instance, and when the content descriptors appeared (five times on EBGames), they were visible without scrolling or having to roll the cursor over the rating icon. Amazon.com was the only site that provided additional warnings about the games' content.[117]

All of the retailer sites had pages with extensive ESRB rating information. The "Mature™ rating icon on Amazon.com, EBGames.com, and GameStop.com, and the textual rating on BestBuy.com, linked to an ESRB rating information section. CircuitCity.com also had an ESRB rating information section, but there was no link from the product-specific page, only from the homepage of the video game section of the site. Three of the five sites (CircuitCity.com, EBGames.com, and GameStop.com) also linked to ESRB.org.

Electronic Game Retailer Website Review

	Amazon	Best Buy	CircuitCity	EBGames	GameStop
Is the game's rating displayed during the purchase process?	5 of 5	5 of 5	5 of 5	5 of 5	5 of 5
Is the word "Mature" readable?	5 of 5	5 of 5	0 of 5	5 of 5	5 of 5
Is the rating visible without scrolling?	5 of 5	5 of 5	5 of 5	5 of 5	5 of 5

Is the game's official ESRB content description displayed during the purchase process?	0 of 5	0 of 5	0 of 5	5 of 5	0 of 5
Is the game's content description readable?	0 of 0	0 of 0	0 of 0	5 of 5	0 of 0
Is the game's content description visible without scrolling?	0 of 0	0 of 0	0 of 0	5 of 5	0 of 0
Does the site provide a link to esrb.org or parentalguide.org?	0 of 5	0 of 5	5 of 5	5 of 5	5 of 5
Does the site provide any detailed information on the ESRB rating system?	5 of 5	5 of 5	5 of 5	5 of 5	5 of 5

C. Product Packaging Review

As a condition for obtaining a rating from the ESRB, companies are required to place the assigned ESRB rating icon on the lower right or left portion of the front of the package, and any content descriptors on separate lines within a rectangular box on the lower portion of the back of the package.[118] The size of the rating icon and font size of the content descriptors on the packaging vary with the size of the box.[119] The rating icon also must be displayed legibly and prominently on game cartridges and disks, and on or in the game—s manual or an accompanpg insert.[120]

The Commission reviewed the packaging for 12 popular g.mes.[121] The Commission found a high level of compliance with the ESRB—s pkaging requirements. The packaging for all but one game[122] fully complied with the requirements for the appearance, location, and size of the rating icons on the packaging, game disks, and game manuals. Compliance was nearly perfect with regard to the appearance and size of the content descriptors and the location of the content descriptor box.[123] All of the rating icons and content descriptors were readable.

D. Analysis of Current Industry Practices

The electronic game industry has adopted numerous standards that discourage the targeting of children for Mature-rated products and require the disclosure of rating information in most forms of advertising. In addition, the industry has in place an extensive system to enforce those standards and bring about continued improvement in industry practices. A major issue remaining is the continued placement of advertisements in television and print media with substantial youth audiences. Such placements comply with industry standards, but still reach substantial numbers of teens. The IDSA points out that standards in this area need to be easily understood, and not unduly restrict the marketing of such products to older audiences. There are, however, additional steps that the industry could take that would limit the exposure of teens to ads for Mature-rated products yet meet that criteria.

V. CONCLUSION

The Commission can report real progress in the disclosure of rating information in most forms of advertising, and nearly universal compliance by both the movie and electronic games industries with industry standards that restrict certain ad placements. The Commission also notes the decision by one major recording company, BMG, to begin to include in advertising and on product packaging the reasons why a recording has a Parental Advisory Label.

Nonetheless, the Commission finds little change in the practices of all three industries with regard to advertising violent R-rated movies, M-rated games, and explicit-content labeled recordings in media popular with teens.[124] As the Commission noted in its December 2001 Report, "although R-rated movies and M-rated games are less likely to be advertised in media with a large *percentage* of teens in the audience, they continue to be advertised in programs with a large *number* of teens in the audience."[125] That remains true today.

The Commission—s December 2001 Report suggested that to fther limit the use of popular teen media to advertise violent entertainment products, the industries consider using a range of factors to help identify those venues most popular with teens. Such factors included:

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the percentage of the audience under 17; the total number of children reached; and the popularity with children and apparent ages of the characters or performers. Other factors › such as the time of day an ad airs on radio or television › also could be considered. The industries do not appear to have adopted any of the Commission-s suggestions.[125]

As the Commission noted in its December 2001 Report, the music industry rejects any suggestion that its Parental Advisory Label system be age-based. The Commission has previously acknowledged that implementing such a suggestion would require fundamental changes in the music industry-s labeling program. But even absent basic changes, the music industry could still adopt standards in this area that lessen children--s exposure to ads for recordings that have a Parental Advisory Label.

To further improve the disclosure of rating and labeling information in advertisements and product packaging, the industries (particularly the movie and music industries) could focus on ensuring that both the rating or label and the reasons for the rating or label are effectively › and clearly › communicated to parents. There are still many examples where such information is hard to find or see.[126]

Finally, the Commission continues to encourage retailers and theater owners to adopt or enforce policies to discourage the sale of R- or M-rated or explicit content-labeled entertainment products to children. Such a step would help limit the influence of industry ad placements that promote violent entertainment products in media popular with youth.

To encourage continued voluntary compliance and to document any changes in self-regulatory efforts, the Commission will monitor the entertainment industry's marketing practices through the next year, and will then issue a follow-up report.

ENDNOTES

1. The Commission—s first Report responded to a request from President Clinton*See* Letter from William J. Clinton, President of the United States, to Janet Reno, Attorney General of the United States, and Robert Pitofsky, Chairman, Federal Trade Commission (June 1, 1999) (on file with the Commission). Legislation calling for the FTC and the Justice Department to conduct a similar study was introduced in both houses of Congress following the Columbine incident. *See* Amendment No. 329 by Senator Brownback *et al.* to the *Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999*, S. 254, 106th Cong. ¯ 511 (1999); H.R. 2157, 106th Cong. (1999); 145 Cong. Rec. S5171 (1999).

2. In January 2001, the Senate Commerce Committee requested that the Commission prepare follow-up Reports in 2001 (the April and December 2001 Reports) to examine whether the entertainment companies continue to advertise products labeled or rated for violent content in popular teen media, and whether rating or label information is included in advertisements of these products.

3. The Commission s prior follow-up Reports described the following industry-wide initiatives:

- The MPAA—s 12-point initiative promised: to avoid running trailers for violent R-rated films before G-rated feature films; to review policies regarding marketing violent R-rated movies to children; to avoid using children in research for R-rated films; to install compliance officers to review their marketing practices; to encourage movie theaters to enforce the R-rating restriction; and to take steps to include the reasons for ratings in print advertisements, on websites, and in home videos. The MPAA member studios › the Walt Disney Company, Metro-Goldwyn-Mayer, Paramount Pictures, Sony Pictures Entertainment, Twentieth Century Fox Film Corp., Universal City Studios, and Warner Bros. › plus Dreamworks SKG, which is not an MPAA member, signed on to the initiative. *See* Motion Picture Association of America, *A Response to the FTC Report* (Sept. 26, 2000).

- NATO s 12-point initiative: reaffirmed its ID-check policy for R and NC-17 films; promised not to show trailers advertising R films before any G or PG film, and only before PG-13 films if consistent in tone and content with the feature film; and committed to appoint an executive compliance officer and seek additional ways to disseminate rating information. *See* National Association of Theatre Owners, *Response of the National Association of Theatre Owners to the Report and Recommendations of the Federal Trade Commission* (Nov. 2, 2000) (on file with the Commission).

- The RIAA—s revised Parental Advisory Labeling system recommended the use of: broad standards for making the explicit-content labeling decisions and guidelines for placing the advisory in print advertising and on retail websites. In July 2001, the RIAA announced that its members supported placing the advisory label in *all* advertising for explicit content recordings, as well as increasing efforts to provide parents with information about

the labeling system. *See* Testimony of Hilary B. Rosen, President and CEO, Recording Industry Association of America, House Subcommittee on Telecommunications and the Internet (July 20, 2001).

- The IDSA's revised Advertising Code of Conduct ("AdCode") limited ad placements in magazines, television shows, and Internet sites popular with teens. The Entertainment Software Rating Board ("ESRB") stepped up its enforcement of the AdCode and began to develop additional sanctions for repeat violators of its provisions. *See* Testimony of Douglas Lowenstein, President, Interactive Digital Software Association, House Subcommittee on Telecommunications and the Internet (July 20, 2001).

4. S. Rep. No. 107-42, at 150 (2001); H.R. Conf. Rep. No. 107-278, at 162 (2001). The eighteen members of the House of Representatives requesting that the Commission conduct an additional follow-up review of industry practices were as follows: Joseph R. Pitts, Cliff Stearns, Steve Largent, Gil Gutknecht, Todd Tiahrt, Walter B. Jones, Mark Souder, Roscoe Bartlett, Pete Hoekstra, Jim Ryun, Henry E. Brown, Jr., Jim DeMint, Thomas Tancredo, W. Todd Akin, Virgil H. Goode, Jr., Robert B. Aderholt, Paul Ryan, and Bob Schaffer.

5. DVDs are rapidly overtaking videotapes as the preferred format for home video. *See* Larissa Brass, *Entertainment: DVD winning home video fight, retailers say*, THE NEWS & OBSERVER OF RALEIGH, N.C. *available at* http://www.nandotimes.com/entertainment/story/209250p-2019104c.html (Jan. 2, 2002); Owen Thomas, *The Meteoric Rise of the DVD*, BUSINESS 2.0 at http://www. business2.com/articles/mag/0,1640,39362,FF.html (May 2002).

6. Motion Picture Association of America, *Initiatives of MPAA Member Companies*, Sept. 26, 2000. *See also Marketing Violence to Children II: Hearing Before the Senate Comm. on Commerce, Science and Transp.*, 106th Cong. (Sept. 27, 2000) (statement of Mel Harris, President and Chief Operating Officer of Sony Pictures Entertainment) (presenting MPAA initiatives), *available at* 2000 WL 1530870.

7. 2002 MPAA ADVERTISING HANDBOOK at 21.

8. *Id.*

9. Memorandum from the MPAA to the FTC, *MPAA Responses to Questions Posed by FTC Staff on March 14, 2002* at 3 (on file with the Commission).

10. *Marketing Violence to Children II: Hearing Before the Senate Comm. on Commerce, Science and Transp.*, 106th Cong. (Sept. 27, 2000), Fed. News Serv., LEXIS, Legis Library, Hearng [sic] File.

11. *Id.*

12. Letter from John Fithian, President, NATO to Richard F. Kelly, Staff Attorney, Federal Trade Commission, at 2-4 (Apr. 12, 2002) (on file with the Commission).

13. Letter from Sean Devlin Bersell, Vice President, Public Affairs, VSDA, to Richard F. Kelly, Staff Attorney, Federal Trade Commission, at 3 (Apr. 19, 2002) (on file with the Commission). As part of the Parents in Control program, retailers also commit not to rent or sell to children any videos that are rated "NC-17" or are "harmful to minors." VSDA's Pledge to Parents Program goes further and asks video retailers not to rent or sell R-rated movies to persons under age 17 without parental consent. That pledge, however, is not part of VSDA's Parents in Control program.

14. The network shows monitored were: *Futurama, King of the Hill, The Simpsons, Malcolm in the Middle, 7th Heaven, The Hughleys, One on One, The Parkers, Girlfriends, Gilmore Girls, That 80's Show, Grounded For Life, Bernie Mac, Titus, Smallville, Family Guy, WWF Smackdown, Reba,* and *Raising Dad.* The cable shows monitored were on MTV-*Jackass, WWF Heat, Total Request Live, The Real World XI, The Osbournes* and *Making the Band*, and on BET-*106th & Park.* For syndicated shows, the Commission monitored the 4-7 pm time slots on Mondays in Los Angeles and on Fridays in New York during February and March 2002: *The Simpsons, King of the Hill, Sabrina the Teenage Witch, 7th Heaven, Steve Harvey, Moesha* and *Jamie Foxx.* See Appendix A for a breakout of the demographics of each of these shows.

15. December 2001 Report at 5.

16. ALL ABOUT THE BENJAMINS was advertised on *Bernie Mac, The Hughleys, Girlfriends, The Real World, Grounded for Life, Family Guy*, and *WWF Smackdown*; BLADE II was advertised on *Bernie Mac, That 80's Show, Family Guy, The Parkers, Girlfriends, One on One, The Hughleys, Smallville,* and *WWF Smackdown*; BROTHERHOOD OF THE WOLF ads aired on *WWF Heat*; COLLATERAL DAMAGE was advertised on *Steve Harvey* and *Smallville*; FRAILTY ads aired on *WWF Smackdown*; HART-S-WAR was advertised on *Smallville, Steve Harvey, Titus,* and *WWF Smackdown*; PANIC ROOM was advertised on *Grounded for Life* and *Titus*, on *Smallville*, on *WWF Smackdown,* and on *WWF Heat*; QUEEN OF THE DAMNED was advertised on *WWF Heat, Moesha, Bernie Mac, That 80's Show, Smallville*, and *Steve Harvey*; RESIDENT EVIL was advertised on *Moesha, Steve Harvey, the Simpsons, the Osbournes, The Real World, Jamie Foxx, Smallville, Titus, Bernie Mac, WWF Heat*, and *WWF Smackdown*; WE WERE SOLDIERS was advertised on *Bernie Mac, WWF Heat*, and *WWF Smackdown.*

17. Ads for Lions Gate Films—"O"—aired on both *106th & Park* and *WWF Heat*; Twentieth Century Fox—JOY RIDE aired on *Jamie Foxx, Steve Harvey, Smallville,* and *WWF Smackdown*; WB-S-HEIST was advertised on *Bernie Mac* and *Smallville*; and ads for WB—TRAINING DAY aired on *106th & Park, Jamie Foxx,* and *Family Guy.*

18. New Line Cinema—ALL ABOUT THE BENJAMINS was advertised on *Grounded for Life.*

19. *See* Appendix A.

20. The Commission examined the following 20 motion picture websites in March 2002: ALI, ALL ABOUT THE BENJAMINS, BLACK HAWK DOWN, BLADE 2, BROTHERHOOD OF THE WOLF,

COLLATERAL DAMAGE, DEUCE-S-WILD, EQUILIBRIUM, FRAILTY, HART-S-WAR, INSOMNIA, JASON X, KILLING ME SOFTLY, NO MAN-S-LAND, PANIC ROOM, QUEEN OF THE DAMNED, RESIDENT EVIL, ROLLERBALL, THE SALTON SEA, SCOTLAND, P.A., STATE PROPERTY, WE WERE SOLDIERS, and WINDTALKERS. The movies were selected based on the following criteria: They were released since December 15, 2001, were R-rated, and had a rating reason that involved violence.

21. The site for Dimension-s-EQUILIBRIUM states, "This film is not yet rated.™Dimension Films, *at* http://www.dimensionfilms.com/equilibrium/index.html (visited March 19, 2002). The site for Lot 47-s-SCOTLAND, P.A. does not mention any rating. Lot 47 Films, *at* http://www.lot47films.com/scotlandpa (visited March 19, 2002).

22. The site for Universal-s-BROTHERHOOD OF THE WOLF had a very effective rating display. Before being allowed to enter the website, a pop-up screen with a large rating icon and rating reasons appeared. The screen also explained what the rating means, provided a warning about the content of the movie, and provided a link to filmratings.com. BROTHERHOOD OF THE WOLF, *at* http://www.brotherhoodofthewolf.net (visited March 19, 2002).

23. Two of these sites (BLADE 2 and JASON X*)* had the rating symbol and rating reasons on every webpage and did not require the visitor to scroll to see them. *See* BLADE 2 *at* http://www.blade2.com (visited March 19, 2002); JASON X *at* http://www.jasonx.com/index_main.html (visited March 19, 2002).

24. SCOTLAND, P.A. is the only site that did not link to one of these three sites. *See* Lot 47 Films, *at* http://www.lot47films.com/scotlandpa (visited March 19, 2002).

25. The Commission examined the following 16 motion picture theater websites: AMC, Carmike, Century Theatres, Cinemark, Clearview Cinemas, GKC Theatres, Goodrich Quality Theatres, Hoyt—s Cinemas, Kerasotes Theatres, ~~k~~ews Cineplex, Marcus Theatres, National Amusement, Regal Cinemas, Silver Cinemas/Landmark Theatres, United Artists, and Wallace Theaters. The Commission reviewed practices pertaining to the following motion pictures: WE WERE SOLDIERS, ALL ABOUT THE BENJAMINS, QUEEN OF THE DAMNED, HART-S-WAR, and COLLATERAL DAMAGE.

26. For purposes of this review, the Commission did not consider information on the third-party site when movie information (e.g., plot synopsis, run time, trailers, etc.) was provided on the theater circuit site itself. Movie information from a linked third-party site was considered, however, when the theater circuit site provided no information about the movie, because the lack of information would encourage the visitor to visit the third-party site. For example, Silver Cinemas, Regal Cinemas, Hoyt-s-Cinemas, and Goodrich Quality Theaters did not provide their own movie information. Moviefone.com, Fandango.com, Movietickets.com, and Hollywood.com, respectively, provided the information for these sites. *See* Silver Cinemas *at* http://www.silvercinemasinc.com (visited April 5, 2002); Regal Cinemas *at* http://www.regalcinemas.com (visited April 5, 2002); Hoyt Cinemas *at* http://www.hoyts.com (visited April 5, 2002); Goodrich Quality Theaters *at* http://www.gqti.com (visited April 5,

2002).

27. Of the 16 sites, only Carmike—s website did not provide rating information. See Carmike Cinemas *at* http://www.carmike.com (visited April 5, 2002).

28. Three of these sites lacked their own movie information; the reasons were provided by a third-party site. The three sites that provided the reasons on their own site were Cinemark, National Amusement, and United Artists. *See* Cinemark *at* http://www.cinemark.com (visited April 5, 2002); National Amusement Cinemas *at* http://www.national-amusements.com (visited April 5, 2002); United Artists *at* http://www.uatc.com (visited April 5, 2002). The rating reasons were always the official MPAA reasons, readable, and visible without having to scroll down the computer screen.

29. Seven sites linked to mpaa.org. In addition to providing a link to mpaa.org, United Artists linked to filmratings.com. National Amusement linked to filmratings.com, parentalguide.org, and mpaa.org. *See* United Artists *at* http://www.uatc.com (visited April 5, 2002); National Amusement Cinemas *at* http://national-amusements.com (visited April 5, 2002).

30. AMC—s website stated, "We check I.D. on R and NC17 movies.™AMC Theatres *at* http://www.amctheatres.com (visited April 5, 2002). Carmike—s site stated, "ID WILL BE REQUIRED.™Carmike Cinemas *at* http://www.carmike.com (visited April 5, 2002). Century Theatres—site stated, "Century Theatres enforces the film rating policies of the MPAA. An adult guardian must accompany anyone under the age of 17 years old who wishes to see a R-rated film. Identification is required if patron appears to be under the age of 17.™Century Theatres *at* http://www.centurytheatres.com (visited April 5, 2002). United Artists had several warnings: "A driver's license or other valid ID will be checked at the box office when selling a ticket for an R-rated film. If a parent or guardian purchases a ticket for a child under the age of 17 for an R-rated picture the ticket will be stamped –PC—(parental consent). † Before the start of each R-rated film, the manager, assistant manager or floor supervisor should scan each auditorium to ensure that no under aged patrons have entered. † Signs notify ing that –We Check IDs— will be displayed in each box office.™United Artists *at* http://www.uatc.com (visited April 5, 2002).

31. Another warning on Moviefone.com stated, "Children under 17 will not be admitted without a parent or adult guardian.™ Moviefne *at* http://www.moviefone.com (visited April 5, 2002).

32. The retailers were Amazon.com, BestBuy.com, CircuitCity.com, SamGoody.com, and TowerRecords.com. CircuitCity.com was substituted for Reel.com, which was reviewed in the last Report, because Reel.com is now operated by Amazon.com. The Commission reviewed practices pertaining to the following movies: BOOK OF THE DEAD, DON—T SAY A WORD, O, KISS OF THE DRAGON, BONES, and JEEPERS CREEPERS. These movies were selected based on the following criteria: (a) among the top-25 video rentals for the week ending March 10, 2002, according to the Internet Movie Database website, www.imbd.com; (b) rated R; and (c) rating reasons include violence. BOOK OF THE DEAD was selected because it appeared in the top video rental list and is rated NC-17.

33. In 22 instances the retailer sites displayed a rating symbol, but on two occasions the rating symbol for BOOK OF THE DEAD was incorrect › ˜R™ instead of ˜NC-17™.

34. Rating reasons were provided in 12 instances, but in nine of those instances they were not the rating reasons provided on filmratings.com.

35. Amazon.com stated that R-rated and NC-17 videos were ˜[n]ot for sale to persons under age 18.™ Amazon*.com* http://www.amazon.com (visited March 20, 2002).

36. September 2000 Report at 55.

37. 2002 MPAA ADVERTISING HANDBOOK at 5, 23, and 25.

38. To promote ratings education, the VSDA provides MPAA ratings posters, store signage, and other materials to retailers and has encouraged movie retailers to educate their employees and customers about the ratings systems and has promoted June as ˜Ratings Awareness Month.™ *See* Bersell letter, *supra* note 14, at 2.

39. Because the ratings are intended to help parents make film viewing choices, the Commission reviewed print ads in general circulation publications rather than just in publications popular with teens. The Commission reviewed ads in the following newspapers with a general circulation for the dates shown: ATLANTA JOURNAL CONSTITUTION (2/22/02, 3/1/02, 3/8/02, 3/15/02, 3/22/02, 3/29/02); BOSTON GLOBE (2/22/02, 3/1/02, 3/8/02, 3/15/02, 3/22/02, 3/29/02); CHICAGO SUN-TIMES (2/22/02, 3/1/02, 3/8/02, 3/15/02, 3/22/02, 3/29/02); CHICAGO TRIBUNE (2/22/02, 3/1/02, 3/8/02, 3/15/02, 3/22/02, 3/29/02); DALLAS MORNING NEWS (3/1/02, 3/8/02, 3/15/02, 3/22/02); LOS ANGELES TIMES (2/22/02, 3/1/02, 3/8/02, 3/15/02, 3/22/02, 3/29/02); NEW YORK POST (2/22/02, 3/1/02, 3/8/02, 3/15/02, 3/22/02, 3/29/02); NEW YORK TIMES (2/22/02, 3/1/02, 3/8/02, 3/15/02, 3/29/02, 4/7/02); NEWSDAY (2/22/02); THE [CLEVELAND] PLAIN DEALER (2/22/02, 3/1/02, 3/8/02, 3/15/02, 3/22/02, 3/29/02); SAN FRANCISCO CHRONICLE (2/22/02, 3/8/02, 3/22/02, 3/29/02); THE [SAN FRANCISCO] TIMES (2/22/02, 3/1/02, 3/8/02, 3/15/02, 3/22/02, 3/29/02); SEATTLE POST-INTELLIGENCER (2/22/02, 3/1/02, 3/8/02, 3/15/02, 3/22/02, 3/29/02); SEATTLE TIMES (2/22/02, 3/1/02, 3/15/02, 3/22/02, 3/29/02); WASHINGTON POST (2/22/02, 3/1/02, 3/8/02, 3/15/02, 3/22/02, 3/29/02). *See* Appendix A.

40. 2002 MPAA ADVERTISING HANDBOOK at 5.

41. Many of the movie ads that were less than five inches included ratings reasons, but most did not.

42. In addition to the magazines with substantial youth audiences that were reviewed to assess ad placement, the following five publications (Feb. through May 2002 editions) were reviewed to assess whether ratings and rating reasons were provided: *Computer Gaming World, Rolling Stone, Spin, Vibe,* and *Wizard*. *See* Appendix A for a breakout of the magazines reviewed.

43. The Commission reviewed Sunday inserts from Amazon.com, Best Buy, Circuit City, Coconuts, CompUSA, Kmart, Media Play, Target, Toys ~R~Us, Value City, Wal-Mart, Wherehouse Music and The Wiz, placed in the newspapers listed in note 39.

44. Only one Wal-Mart insert was available for review, and it contained no advertisements for R-rated videos or DVDs.

45. 2002 MPAA ADVERTISING HANDBOOK at 25.

46. *Id.*

47. *Id.* at 26.

48. *Id.*

49. The Commission selected the movies from a list of top-50 video rentals for the week ending March 10, 2002, as reported by the Internet Movie Database, Inc. *at* http://www.imdb.com/Charts/videolast (visited April 5, 2002).

50. Compliance was slightly less with the MPAA disclosures required during the movie—s preface. Eight out of 12 movies displayed the rating during the preface, and seven displayed the rating reasons and referred to filmratings.com. No restricted trailers were shown before the PG-13-rated films reviewed.

51. Letter from Hillary Rosen, President and CEO, Recording Industry Association of America, to The Honorable Timothy J. Muris, Chairman, Federal Trade Commission at 3 (Apr. 26, 2002) (on file with the Commission).

52. *Id.*

53. *Id.* at 4.

54. UMG ran ads on *106th & Park* (BET), MTV shows *Total Request Live, Jackass, Making the Band*, and *The Osbournes*, and UPN-s-*WWF Smackdown* for TOXICITY, WORD OF MOUF, STATE PROPERTY Soundtrack, NO HALF-STEPPIN—BEST OF BOTH WORLDS, THE SOURCE HIP HOP HITS VOL. 5, COME CLEAN, ENTER THE LIFE OF SUELLA, and ASHANTI. Sony ran ads on MTV shows *Total Request Live, WWF Heat* and *Making the Band*, as well as on BET-s-*106th & Park* and UPN-s-*WWF Smackdown* for J TO THA LO! [REMIXES], THE INFAMY, IMPACT OF A LEGEND, THE PLEDGE OF ALLEGIANCE TOUR, STILLMATIC, and BUILT FROM SCRATCH. EMI ran ads on *The Osbournes* for IN SEARCH OF... and the BLADE II Soundtrack. BMG ran ads on *Total Request Live, Making the Band, So 5 Minutes Ago: SB* and *The Osbournes* on MTV, as well as on *WWF Smackdown* for ADEMA and FAST. Warner ran ads on *106th & Park* for WATERMELON, CHICKEN & GRITZ. Independent companies ran ads for GORY DAYS, THE STING, INSTRUCTIONS, and THE TRIALS AND TRIBULATIONS OF RUSSELL JONES on *Total Request Live, 106th & Park, WWF Heat*, and *Making the Band*.

A separate review of first-airing data showed that UMG ran ads on *106th & Park, Total Request Live* and *Making the Band* for ASHANTI, DENIALS, DELUSIONS & DECISIONS, the STATE PROPERTY Soundtrack, WORD OF MOUF, and BEST OF BOTH WORLDS. Sony ran ads on *Total Request Live* and *106th & Park* for INSTRUCTIONS, BUILT FROM SCRATCH, IMPACT OF A LEGEND, and J. TO THA LO! [REMIXES]. Warner ran an ad on *106th & Park* for WATERMELON, CHICKEN & GRITZ. BMG ran an ad for ADEMA on *The Osbournes*. Independent companies ran ads on *106th & Park* for THE STING and GORY DAYS.

55. UMG ran four ads in *Metal Edge*, two ads in *Right On!* and one ad in *Thrasher*. BMG ran one ad in *Metal Edge*. Independent companies ran two ads in *Right On!* and four in *Metal Edge*. No ads for explicit content recordings were found in *Teen*, *Teen People*, *CosmoGirl!*, *Seventeen*, or *YM*.

56. Rosen Letter, *supra* note 51, at 2.

57. *Id.*

58. *Id.*

59. *Id.*

60. *Id.*

61. Letter from Pamela Horovitz, President, NARM, to Mary Engle, FTC, at 2 (Apr. 19, 2002) (on file with the Commission).

62. Rosen Letter, *supra* note 51, at 2.

63. BMG has been working on the development of this new policy for more than a year. The revised sticker would appear as follows:

64. *Id.* at 3; Horovitz Letter, *supra* note 61, at 3.

65. See Appendix A.

66. Ads for explicit recordings placed by independent companies showed that five out of nine contained a Parental Advisory Label.

67. These ads also included an addition to the label which said "Edited Version Also Available.™

68. *CosmoGirl!, Metal Edge, Right On!, Rolling Stone, Spin, Seventeen, Teen, Teen People, Thrasher, Vibe,* and *YM.*

69. Specifically, UMG ran 14 ads for explicit-content recordings: five without a Parental Advisory Label and nine with a parental advisory, all of which were clear and conspicuous. BMG ran four ads for explicit-content recordings, one of which was clear and conspicuous and three of which had no Parental Advisory Label. EMI ran four ads for explicit-content recordings, none of which had a Parental Advisory Label. Sony ran three ads for explicit-content recordings: two were clear and conspicuous, and the third had no Parental Advisory Label.

Advertisements for the following explicit-content recordings displayed advisories clearly and conspicuously: ALL THAT COULD HAVE BEEN, TARANTULA, ROCK CITY, DENIALS, DELUSIONS & DECISIONS, ELVA, COME CLEAN (Target), LIVE & UNRELEASED FROM FARMCLUB.COM (Target), TOXICITY (Target), GAME FACE, KEEP IT COUNTRY, CUTS FROM THE CRYPT, KILLING IS MY BUSINESS, PLEDGE OF ALLEGIANCE TOUR, HEAVY STARCH, and PERSEVERANCE.

70. The Commission reviewed sites for the following artists and albums: Ludacris - WORD OF MOUF, Ja Rule - PAIN IS LOVE, Nas - STILLMATIC, Puddle of Mudd - COME CLEAN, Kid Rock - COCKY, STATE PROPERTY (Soundtrack), Mystikal - TARANTULA, System of a Down - TOXICITY, Busta Rhymes - GENESIS, Staind - BREAK THE CYCLE, DMX - THE GREAT DEPRESSION, Jennifer Lopez - J. LO, Master P - GAME FACE, Petey Pablo - DIARY OF A SINNER, Jay-Z - MTV UNPLUGGED, Ruff Ryders - RYDE OR DIE VOL. 3, IN THE "R™WE TRUST, Fat Joe - J.O.S.E., Rob Zombie - THE SINISTER URGE, Jaguar Wright - DENIALS DELUSIONS & DECISIONS, and Fabolous - GHETTO FABOLOUS.

71. The Commission selected the websites based on a listing of the top 200 albums as ranked by Billboard on February 23, 2002. The albums had to bear a Parental Advisory Label and have an active company or artist webpage or website promoting the album.

72. BestBuy.com was the lone site to provide detailed information about the Parental Advisory Label system. *See* Best Buy *at* http://www.bestbuy.com (visited March 28, 2002).

73. The five CDs from Amazon.com, CDNow.com, and TowerRecords.com had audio files to download. *See* Amazon *at* http://www.amazon.com (visited March 28, 2002); CDNow *at* http://www.cdnow.com (visited March 28, 2002); Tower Records *at* http://www.towerrecords.com (visited March 28, 2002). In addition, one CD from SamGoody.com had downloadable audio files. *See* Sam Goody *at* http://www.samgoody.com (visited March 28, 2002).

74. RIAA Parent—s PageParental Advisory Label, *Usage Guidelines for Audio and Music Video Product, available at* http://www.riaa.com/Parents-Advisory-6.cfm (visited January 31, 2002).

75. *Id.;* RIAA Parent—s Page Parental Advisory Label, *RIAA Uniform Standards for Applying Parental Advisory Label, available at* http://www.riaa.com/Parents-Advisory-5.cfm (visited April 4, 2002).

76. The CD entitled SYSTEM OF A DOWN by the artist Toxicity used a sticker on the front of the jewel case, but underneath the shrinkwrap.

77. In considering the change it was noted that the movie industry commonly places its rating information on the back of videos and DVDs. Horovitz Letter, *supra* note 61, at 2-3.

78. To the extent that sellers rely on clip art of a CD package in advertisements to communicate that the CD contains explicit content, the package label would no longer serve that function.

79. Hilary Rosen, President of RIAA, suggests how parents can use the parental advisory label to help them make the right decisions about the music their children listen to. She states, ˜Parents can use the label to identify music that may not be appropriate for their children and make the choice about when › and whether › their childre n should be able to have that recording.™ RIAA, TALK WITH YOUR KIDS (brochure explaining the Parental Advisory Label Program).

80. September 2000 Report at 45.

81. THE ADVERTISING CODE OF CONDUCT (˜ADCODE™) at 12, 17, 28 (2001). The ADCODE also requires game publishers who license third parties to sell action figures and other products based on their M-rated games to require that packaging for the products include the following statement: ˜This [state item] is based on a Mature rated video game.™ *Id.* at 24.

82. *See* December 2001 Report at 35 (where the Commission made this suggestion).

83. Letter from Douglas Lowenstein, President, IDSA to Richard F. Kelly, Staff Attorney, Federal Trade Commission, at 5 (April 5, 2002) (on file with the Commission).

84. December 2001 Report at 35.

85. Lowenstein Letter, *supra* note 83, at 3-4.

86. *Id.* at 4-5.

87. Bersell Letter, *supra* note 13 at 3. As part of VSDA—s Parents in Control Certification program, retailers also commit not to rent or sell to children any video games that are rated ˜Adults Only" or are ˜harmful to minors.™ VSDA—s Pledge to Parents Program goes further and asks retailers not to rent or sell M-rated video games to persons under age 17 without parental consent. That pledge, however, is not part of VSDA-s Parents in Control program.

88. The network shows monitored were: *Futurama, King of the Hill, The Simpsons, Malcolm in the Middle, 7th Heaven, The Hughleys, One on One, The Parkers, Girlfriends, Gilmore Girls,*

That 80's Show, Grounded for Life, Bernie Mac, Titus, Smallville, Family Guy, WWF Smackdown, Reba, and *Raising Dad.* The cable shows monitored were on MTV › *Jackass, WWF Heat, Total Request Live, The Real World XI, The Osbournes, Making the Band, Spring Break Uncensored: SB* and *So 5 Minutes Ago: SB* › and on BET › *106th & Park.* For syndicated shows, the Commission monitored the 4-7 pm time slots on Mondays in Los Angeles and on Fridays in New York during February and March 2002: *The Simpsons, King of the Hill, Sabrina the Teenage Witch, 7th Heaven, Steve Harvey, Moesha* and *Jamie Foxx.*

89. Ads for GENMA ONIMUSHA (Capcom) appeared on *WWF Smackdown*, MTV-s-*The Real World*, and Fox-s-*Titus* and *Family Guy.* Ads for MAX PAYNE (Rockstar Games) aired on *WWF Smackdown, The Real World* and MTV-s-*WWF Heat.* Ads for METAL GEAR SOLID 2: SONS OF LIBERTY (Konami) appeared on *WWF Smackdown* and ads for GRAND THEFT AUTO 3 (Rockstar Games) aired on *WWF Heat* and *WWF Smackdown.*

90. *See* Appendix A.

91. Ratings Pending (ˆRP™) ads were included based on the rating which they later received. The chart does not include ads that, as of April 2002, had not yet received a rating.

92. As discussed in the December 2001 Report, a readership study, commissioned by *GamePro*, revealed that 54% of *GamePro's* subscribers are under the age of 17. Eliminating the M-rated games from its subscription editions can, therefore, be seen as a positive step by *GamePro.* December 2001 Report, n.130. A review of the three magazines (*GamePro* [subscription edition], *GamePro* [newsstand edition] and *Electronic Gaming Monthly*) shows that E- and T-rated games comprised 47% of the ads, with M-rated games comprising only 5% of the ads.

93. Several ads appeared in other publications the Commission reviewed that were not game enthusiast magazines. An ad for the T-rated game AIRBLADE (NAMCO) appeared in *Thrasher*, and an ad for SIMS: VACATION (Electronic Arts), also T-rated, appeared in *Teen People.* Two ads by Sony Computer Entertainment America, Inc. appeared in *Wizard* magazine: one for the T-rated OKAGE: SHADOW KING, and one for the M-rated DRAKAN: THE ANCIENTS–GATES. An ad for DRAKAN: THE ANCIENTS–GATES also appeared, along with Microsoft-s-M-rated game HALO, in a March issue of Marvel Comics. It is difficult to say whether this edition of Marvel Comics has a high teen readership, because the comic itself is rated ˆPG.™

94. Acclaim (SHADOW MAN: 2ND COMING), Capcom (GENMA ONIMUSHA, DEVIL MAY CRY, ONIMUSHA: WARLORDS, ONIMUSHA 2: SAMURAI-S-DESTINY), Eidos (DEUS EX: THE CONSPIRACY, LEGACY OF KAIN: BLOOD OMEN 2), Interplay (RLH: RUN LIKE HELL), Konami (METAL GEAR SOLID 2: SONS OF LIBERTY, SILENT HILL 2), Microsoft (HALO), Midway (SHADOW HEARTS, MKA: MORTAL KOMBAT ADVANCE), Rockstar Games (STATE OF EMERGENCY, MAX PAYNE), and Sony Computer Entertainment America, Inc. (SYPHON FILTER 3, DRAKAN: THE ANCIENTS–GATES). In addition, an issue of *WWF Magazine* included an ad for the M-rated game STATE OF EMERGENCY (Rockstar Games). *WWF Magazine* consistently is one of the most popular magazines with children and teens. *See* Appendix A.

95. The IDSA reports that it has avoided imposing such a requirement for television because the descriptors can be difficult to read on a television screen and because it does not believe that descriptors can be displayed in a 30 second ad in a way that permits viewers to absorb the information. IDSA has stated, however, that it will continue to consider this issue. Lowenstein letter, *supra* note 83 at 6.

96. Letter from Marc E. Szafran, Senior Vice President and General Counsel, ESRB to Richard F. Kelly, Staff Attorney, Federal Trade Commission, at 1-3 (April 5, 2002) (on file with the Commission).

97. The Commission—s review necessarily accepts the ratings assigned by the industry to the product. Some consumer and parent groups, however, continue to express concern regarding the accuracy of some of the ESRB ratings. Both the National Institute on Media and the Family and the Lion & Lamb Project suggest that certain games should be rated for an older audience. For example, parent panels set up by the National Institute on Media and the Family would have assigned an M-rating to 31% of the Teen games they reviewed. NATIONAL INSTITUTE ON MEDIA AND THE FAMILY, 6TH ANNUAL VIDEO AND COMPUTER GAME REPORT CARD, at 5 (Dec. 13, 2001). The Lion & Lamb Project also noted the appearance of ads for M-rated games on stores—in-store televisions, and the availability of such games for play by children on in-store kiosks.

98. The required voice-over, "Rated M for Mature,™ applies to television ads longer than 15 seconds. For ads 15 seconds or less, the required voice-over is shortened to "Rated Mature.™ ESRB requires the rating icon to be 22 scan lines in size. *See* December 2001 Report, at 3, n. 138.

99. In July 2001, the ESRB increased the size requirements for the rating icon and said that publishers must be in compliance with the new requirements by the February 2002 issues.

100. These ads either a) omitted a descriptor assigned to the game; b) changed the wording of the descriptor in a way that understated the level of violence, sex, or strong language in the game; c) for RP ads, left off the ESRB-required box containing the phone number and website address for the ESRB that could be called or visited to check if the game had subsequently received a rating; or d) used rating icons substantially smaller than the size required by ESRB regulations.

101. The ads for DUKE NUKEM: MANHATTAN PROJECT (3D Realms), when advertised as Rating Pending, did not include a phone number or the information for the ESRB website or had icons whose size requirements did not meet ESRB standards. These problems were corrected when the ad appeared with its M-rating. The ads for DYNASTY WARRIORS 3 (KOEI) had icon sizes that did not meet ESRB requirements. In subsequent issues they were made larger but still appeared to be slightly below ESRB requirements.

102. A poster in Nintendo Power for DINOTOPIA did not include an icon or a descriptor. Midway-s inserts for the T-rated games SPYHUNTER and GAUNTLET: DARK LEGACY, both included an icon of the correct size and descriptors.

103. ADCODE at 29. If the publisher's advertisement is smaller than one-fourth of a screen page (such as standard banner advertisement), the rating icon and content descriptors must be visibly and prominently displayed either directly on the advertisement and/or on a web page or product specific page that links directly from the advertisement. *Id.*

104. *Id.* Because a game often can be purchased from several different pages, the AdCode would appear to require disclosures on multiple pages. For purposes of this review, however, the Commission deemed a site compliant with the AdCode so long as the appropriate rating information was displayed on a page that a visitor must click through to make a purchase.

105. *Id.* The Commission's review showed that a visitor might navigate through several pages after requesting a download. Accordingly, the Commission deemed a site compliant with the AdCode's demo disclosure requirement, so long as the appropriate rating information was disclosed adjacent to the title of the game and either (a) in close proximity to the link that initiated the download, or (b) on any subsequent page through which a visitor must navigate during the download process.

106. The games selected met several criteria. They were (a) M-rated; (b) released in or after November 2001 according to gamezone.com, listed on gamezone.com or Amazon.com as an upcoming release before July 2002, listed among the top-100 selling games by platform on Amazon.com as of March 13, 2002, and/or listed on ESRB.org's recently rated list; and (c) appeared on an active website/webpage dedicated to the M-rated version of the game.

107. The site for MAX PAYNE did not display the "M™ icon on the teaser page or home page and the icon was not readable on the picture of the game's cover art. *See* MAX PAYNE *at* http://www.maxpayne.com (visited March 23, 2002).

108. One site warned at the outset that it contained subject matter based on an M-rated game that was not suitable for persons under age 17. When a visitor attempted to view the site for Nintendo's ETERNAL DARKNESS, a pop-up screen appeared, stating, "Editorial content on Nintendo.com is intended to be suitable for all ages. The game you are about to view has been rated M for Mature (ages 17+) by the ESRB and is therefore only appropriate for users seventeen years and over. If you would like to view content on M (Mature) rated games, click here.™ Nintendo: ETERNAL DARKNESS *at* http://www.nintendo.com (visited March 20, 2002).

109. The sites for DEVIL MAY CRY and DIABLO 2 displayed incorrect content descriptors. *See* DEVIL MAY CRY *at* http://www.capcom.com/devilmaycry (visited March 26, 2002); DIABLO 2 *at* http://www.blizzard.com/diablo2exp (visited March 23, 2002).

110. The page stated:

> NOTICE: You are about to download a product that is rated "M™ for mature audiences. This product contains animated violence. Industry regulations prohibit you from downloading this material if you are under the age of 17. By clicking on the download

link below you certify that you are at least 17 years of age, and that you consent to viewing "M™ rated material. SOLDIER OF FORTUNE *at* http://www.activision.com/games/soldieroffortune/doublehelix.asp (visited March 22, 2002).

111. Four of the sites had descriptors that could be viewed without scrolling, and four sites had content descriptors that could be viewed without having to roll the mouse over the rating icon.

112. The three sites for games from Capcom contained a statement stating, "Must be 18 or older to purchase products from the Capcom Online Store."™*See* Capcom Games *at* http://www.capcom.com/xpml/game.xpml?gameid=650034 (visited March 22, 2002); http://www.capcom.com/xpml/game.xpml?gameid=650023 (visited March 20, 2002); http://www.capcom.com/devilmaycry (visited March 26, 2002). Acclaim-s-SHADOW MAN: 2ND COMING site prominently displayed an additional rating icon and content descriptors after the visitor had initiated the purchase process. *See* SHADOW MAN: 2ND COMING *at* http://www.acclaim.com/games/shadowman2/index.html (visited March 26, 2002). The site for Blizzard-s-DIABLO 2: LORD OF DESTRUCTION employed several warning and cautionary statements during the purchase process. After clicking on the "Buy it now™ icon, the screen displayed a prominent rating icon, which linked to the ESRB website and which revealed the content descriptors when the mouse was placed over it. The next page provided another link to the ESRB website and stated, "The game that you have requested to purchase has been given a Mature rating by the ESRB. By submitting this purchase request to Blizzard Entertainment you are representing that you are either over the age of seventeen (17) or have obtained your parent or guardian's permission to do so."™*See* DIABLO 2 *at* http://www.blizzard.com/diablo2exp (visited March 23, 2002).

113. For the December 2001 Report, the Commission found that only one retailer had attempted to provide content descriptors during the purchase process, but that all but one of the retailers uniformly had displayed the correct rating icon during the purchase process and had pages with extensive ESRB rating information. December 2001 Report at 32.

114. CircuitCity.com was substituted for ToysRUs.com in this Report because Amazon.com and ToysRUs.com use the same Amazon.com site.

115. BestBuy.com was the only retailer that does not use the ESRB rating icon, displaying the word "Mature™ in verysmall letters. *See* Best Buy *at* http://www.bestbuy.com (visited March 28, 2002). CircuitCity.com displays the rating solely on the game—s cover art, rulering the word "Mature™ in the rating unreadble for each of the five games reviewed. *See* Circuit City *at* http://www.circuitcity.com (visited March 26, 2002).

116. Two games on Amazon.com displayed content descriptors, but they were not the official ESRB descriptors. *See generally* Amazon *at* http://www.amazon.com (visited March 26, 2002). Next to these games— descriptors, a link stating, "what this means,Would take the visitor to a page describing Amazon.com—s contt description system, which uses six descriptors › Cartoon

Violence, Realistic Violence, Adult Language, Horror, Gore, and Mature Content. *See* Amazon Ratings Page *at* http://www.amazon.com/exec/obidos/tg/feature/-/71576/103-6552262-4931002 (visited March 26, 2002).

117. Next to the rating icon for the five M-rated games checked on Amazon.com, a statement read, "Content suitable for ages 17 or older.™ Two other M-rated games on Amazon.com (STATE OF EMERGENCY and GRAND THEFT AUTO 3) were accompanied by the statement, "WARNING: Violent content and mature themes make this game inappropriate for anyone under 17.™ *See* STATE OF EMERGENCY *at* http://www.amazon.com/exec/obidos/tg/stores/detail/-/videogames/B00005UNWB/qid=1023464928/sr=8-1/ref=sr_8_1/103-6552262-4931002 (visited March 26, 2002); GRAND THEFT AUTO 3 at http://www.amazon.com/exec/obidos/tg/stores/detail/-/videogames/B00005O0I2/qid=1023465046/sr=2-2/ref=sr_2_2/103-6552262-4931002 (visited March 26, 2002).

118. ADCODE at 7-9 (2001).

119. *Id.*

120. *Id.* There are additional requirements for demos that appear on software rated by the ESRB. *Id.* at 20.

121. Ten were for the Playstation 2 system, while two were playable on a personal computer. The Commission selected the 12 games from VSDA—s VIDTRAC list of top-five rented video game titles for the week ending March 3, 2002, the top-ten list for the month of February, and the top-ten list for the month of December, 2001.

122. The rating icon for one of the PC games was smaller than required.

123. The packaging for one of the PC games failed to list the rating category (MATURE) in the top portion of the content descriptor box. Three of the nine games with content descriptors failed to list the descriptors on separate lines.

124. *See* Appendix A (identifying programs monitored by the Commission). The monitored programs had a substantial percentage of young viewers, or had a large number of youth viewers.

125. The electronic game industry has questioned the practicality of using at least some of these factors in developing an expanded policy to limit ad placements. However, given the continued practice of all three industries to place ads for violent entertainment products in media popular with teens, additional thought and discussion by those groups about how to lessen these placements could be constructive. The voluntary standards currently in use by the movie and electronic games industries cut off few media approaches that had been used by industry members in the past to target young audiences for rated or labeled products.

126. Proposals to move rating or labeling information from the front of product packaging to the back (as under consideration in the music industry) would appear to be a step backward, and could needlessly hinder parents— efforts to assess whether such produts have content suitable for their child.

Concurring Statement of Commissioner Orson Swindle Concerning the Federal Trade Commission's Twenty-One Month Follow-Up Review of Industry Practices in the Motion Picture, Music Recording and Electronic Game Industries

I support continued Commission monitoring and reporting regarding the marketing of violent entertainment to children. With our reports, we contribute helpful information to the public debate on the extent to which such marketing targets children and teens and the means by which industry can empower parents to make and enforce informed decisions about appropriate entertainment for their children.

Nonetheless, the First Amendment appropriately limits what the government can do. Despite our scrutiny, the music industry continues to target young people explicitly in its advertising and, for the most part, refuses to provide content-based information that could help consumers. The motion picture and electronic game industries have acted far more responsibly in improving their self-regulatory programs, yet continue to allow advertising of R-rated movies and M-rated games in venues that attract large numbers of teens. To varying degrees, all of the industries fall short in effectively communicating the rating or label as well as the reasons for it. What becomes clear as we continue with our series of reports is that if the public wants a change in these marketing practices, the public must demand that change and express its wishes in the currency of the marketplace.

Appendix A

DATA COLLECTION METHODOLOGY AND TELEVISION AND PRINT DEMOGRAPHICS

I. POPULAR TELEVISON SHOWS AMONG TEENS

A. Network, Cable and Syndicated Television Monitoring

The Commission contracted with a commercial advertising tracking firm, Video Monitoring Service ("VMS"), to track advertisements for rated or labeled products on popular teen television programs. In selecting which television shows to review, the Commission focused on programs that were most popular with teens in terms of total teen audience and percentage of viewers who were under 18. In February and March 2002, VMS continuously monitored the cable, network and syndicated[1] programs set out in Tables A and B. With the exception of *Jackass* and *WWF Heat*, all of these programs aired between 3 and 10pm.[2] There were 99 ads for ten violent R-rated films, 34 ads for 18 explicit-content recordings and 33 ads for four violent M-rated electronic games on the monitored programs.

Table A: Network and Cable Television Shows Monitored

Program	Average[3] Audience Age 2-17 (thousands)	Average Total Audience (thousands)	Audience Under 18 (%)	Network
Futurama	1956	6451	30	FOX
King of the Hill (Sunday)	2264	8670	26	FOX
Simpsons (Sunday)	3296	12752	26	FOX
Malcolm in the Middle (Sunday)	3416	13717	25	FOX
7th Heaven	2210	7444	30	WB
The Hughleys	1220	3816	32	UPN
One on One	1558	4336	36	UPN
Parkers	1583	4524	35	UPN
Girlfriends	1341	4261	31	UPN
Gilmore Girls	1511	5402	28	WB
That 80s Show[4]	2257	10205	22	FOX

Grounded For Life	2010	7690	26	FOX
Bernie Mac	2776	10143	27	FOX
Titus	2018	7921	25	FOX
Smallville	1514	6032	25	WB
Family Guy	1502	4763	32	FOX
WWF Smackdown	2130	6668	32	UPN
Reba	1364	4463	31	WB
Raising Dad	1164	3344	35	WB
Jackass (Sunday)	532	1555	34	MTV
WWF Heat (Sunday)	346	1211	29	MTV
Making the Band	231	551	42	MTV
The Real World XI	350	1103	32	MTV
The Osbournes	423	1645	26	MTV
Spring Break Uncensored: SB	260	752	35	MTV
So Five Minutes Ago: SB	208	605	34	MTV
Total Request Live	295	575	51	MTV
106th & Park	224	504	44	BET

The syndicated programs monitored by VMS are set out below in Table B. VMS also monitored ad placements on *The Simpsons*. Although demographic data are not available for that program, it is perennially ranked as one of the most popular programs for youth.

Table B: Syndicated Television Programs Monitored

Program	Average Audience Age 2-17 (thousands)	Average Total Audience (thousands)	Audience Under 18 (%)	Network
7th Heaven	775	2258	34	Syndicated

Sabrina the Teenage Witch	983	1991	49	Syndicated
Steve Harvey	623	2335	27	Syndicated
Moesha	567	1625	35	Syndicated
Jamie Foxx	557	1849	30	Syndicated
King of the Hill	1252	4402	28	Syndicated

II. PRINT MEDIA

A. Magazines Reviewed to Assess Ad Placement

From February through May 2002, the Commission reviewed magazines with majority or substantial youth audiences including game enthusiast magazines, skateboarding magazines, music publications, wrestling magazines, and general interest teen magazines. Many of these magazines had been previously identified in the marketing plans reviewed for the September 2000 Report as magazines used when the industry's target audience included children under 17. Table C lays out the name of the publications, the particular issues reviewed, and the demographics of readers (as reported in the Commission's December 2001 Report).

Table C: Youth-Oriented Print Publications Reviewed

Magazine	Issues Reviewed	Age Demographics
100% Independent Playstation	2/02, 3/02, 4/02	Mean Age: 21.4 Median Age: 17
CosmoGirl!	2/02, 3/02, 4/02, 5/02	Median Age: 16.5
DC Comics	3/02	Kids group - Median age: 8.6 Teen group - Median Age: 15.8 Adult group - Median Age: 28.8
Electronic Gaming Monthly	2/02, 3/02, 4/02, 5/02	Average age 21; Median age 18 (47% under 18)
Game Pro	2/02, 3/02, 4/02, 5/02	54% of subscribers are 16 and under; 35% of newsstand readers are 16 and under
Marvel Comics	4/02	Junior group - Median age: 9 Senior group - Median age: 14
Metal Edge	2/02, 3/02, 4/02, 5/02	Average age: 21

Nintendo Power	2/02, 3/02, 4/02	Median age: 14
Right On!	2/02, 3/02, 5/02	Female median age: 15 Male median age: 18
Seventeen	2/02, 3/02, 4/02, 5/02	Median age: 16
Teen	2/02, 3/02, 4/02, 5/02	Median age: 15.4
Teen People	2/02, 3/02, 4/02, 5/02	Median age: 15.4
Thrasher	2/02, 3/02, 5/02	Mean age: 16.3 Median age: 17.5
Tips & Tricks	2/02, 3/02, 4/02, 5/02	Mean age: 20.6 Median age: 18.1 (49.8% are under 18)
WWF	2/02, 3/02, 4/02, 5/02	62% between 12 and 17
YM	2/02, 3/02, 4/02, 5/02	Median age: 16.1

The Commission also obtained data from Simmons Market Research on the popularity of many of these magazines with young children and teens. As part of its annual National Consumer Survey, Simmons interviews teens and younger children on whether they read certain magazines.[5] These results, aggregated from Simmons surveys in the Spring and Fall of 2001, show several trends.

Game enthusiast magazines such as *GamePro* and *Electronic Gaming Monthly* were much more popular with young males, while magazines such as *Teen* and *YM* were much more popular with young females. For example, *Electronic Gaming Monthly* and *GamePro* consistently ranked in the top 20 magazines read by young males (based on responses of whether on average they read or looked into all four of four issues).[6] *Electronic Gaming Monthly* ranked #7 for pre-teen boys 9-11 years old, #14 for younger tween and teen boys 12-14 years old and #5 for older teen males 15-16 years old. *GamePro* ranked #1 with pre-teen boys 9-11 years old and #5 and #16 with younger tween and teen boys and males 12-14 and 15-16 years old, respectively. Looking at this data also shows another trend. Younger pre-teen and teen boys (those 9-11 years old and 12-14 years old) appear to prefer *GamePro*, while older teen males (15-16 years old) move from *GamePro* to *Electronic Gaming Monthly*.

Although game enthusiast magazines were some of the least read by young females, *Seventeen, Teen People, Teen* and *YM* consistently ranked in the top 20 for young females who reported reading on average four out of the last four issues. *Seventeen* ranked #16 with females ages 12-14 and #5 with females ages 15-16. *Teen* ranked #12 for females 12-14 and #9 with females 15-16 years old. *Teen People* was #11 with females and #12 for females ages 15-16. *YM* ranked #17 with females 12-14 years old and #7 with females 15-16 years old.

Wrestling and skateboarding enthusiast magazines were more popular with young males than females. *Thrasher* (skateboarding enthusiast magazine) ranked #8 with males 12-14 years

old and #6 with males 15-16 years old, suggesting that this magazine appeals to a wide age-range. *WWF* magazine ranked #13 with males 12-14 years old and #21 with males 15-16 years old. Interestingly, this magazine also ranked #17 with females ages 15 and 16.[7]

B. Magazines and Newspapers Reviewed to Assess Rating Information

To assess whether or not a rating or rating reason was displayed clearly and conspicuously in an advertisement for a rated or labeled movie, recording, or electronic game, the Commission examined the magazines mentioned above as well as the magazines and general circulation newspapers set out in Table D below. Because rating information is primarily for parents, the Commission reviewed general circulation periodicals, and not just periodicals aimed at children. These periodicals, however, were not used to assess whether or not ads were targeted to children.

Table D: Other Print Publications Reviewed for Rating Information

Magazines	**Issues Reviewed**
Computer Gaming World	2/02, 3/02, 4/02, 5/02
Rolling Stone	3/02, 4/02
Spin	2/02, 3/02, 4/02, 5/02
Vibe	2/02, 3/02, 4/02, 5/02
Wizard	2/02, 3/02, 4/02, 5/02
Newspapers	**Issues Reviewed**
Atlanta Journal-Constitution	2/22/02, 3/1/02, 3/8/02, 3/15/02, 3/22/02, 3/29/02
Boston Globe	2/22/02, 3/1/02, 3/8/02, 3/15/02, 3/22/02, 3/29/02
Chicago Sun-Times	2/22/02, 3/1/02, 3/8/02, 3/15/02, 3/22/02, 3/29/02
Chicago Tribune	2/22/02, 3/1/02, 3/8/02, 3/15/02, 3/22/02, 3/29/02
Dallas Morning News	3/1/02, 3/8/02, 3/15/02, 3/22/02
Los Angeles Times	2/22/02, 3/1/02, 3/8/02, 3/15/02, 3/22/02, 3/29/02

New York Post	2/22/02, 3/1/02, 3/8/02, 3/15/02, 3/22/02, 3/29/02
New York Times	2/22/02, 3/1/02, 3/8/02, 3/15/02, 3/29/02, 4/7/02
The [Cleveland] Plain Dealer	2/22/02, 3/1/02, 3/8/02, 3/15/02, 3/22/02, 3/29/02
San Francisco Chronicle	2/22/02, 3/8/02, 3/22/02, 3/29/02
San Francisco Times	2/22/02, 3/1/02, 3/8/02, 3/15/02, 3/22/02, 3/29/02
Seattle Post-Intelligencer	2/22/02, 3/1/02, 3/8/02, 3/15/02, 3/22/02, 3/29/02
Seattle Times	2/22/02, 3/1/01, 3/15/02, 3/22/02, 3/29/02
Washington Post	2/22/02, 3/1/02, 3/8/02, 3/15/02, 3/22/02, 3/29/02

ENDNOTES

1. The syndicated programs aired in New York City on Fridays on channel 9 from 6-8 p.m. and on channel 11 from 5-7 p.m. between February 8, 2002 and March 29, 2002, and in Los Angeles on Mondays on channels 5 and 11 from 5-7 p.m. between February 4, 2002 and March 25, 2002.

2. *Jackass* airs on MTV from 10-11 p.m. on Sundays and *WWF Heat* airs on MTV from 7-8 p.m. on Sundays.

3. The audience numbers appearing in Tables A and B came from data obtained from Nielsen Media Research for the time period of September 2001 until February or April of 2002.

4. Nielsen ranks *That 80s Show* as number 6 in terms of the size of the teen audience.

5. The Simmons Teenage survey, administered to Teens, 12-17, asks about the frequency in which Teens, aged 12-17, read or look at 86 magazines. The Simmons Kids Survey, administered to children, aged 6-11, looks at 30 magazines.

6. Simmons asked survey participants to indicate how many of every four issues of a selected list of magazines, on average, they "have read or looked into." *Official US Playstation Magazine* was also very popular with both younger teens and pre-teens boys.

7. See *2001 Simmons Teens Survey* and *2001 Simmons Kids Survey*, Simmons Market Research Bureau (on file with the Commission).

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